STATE OF MINNESOTA DISTRICT COURT
COUNTY OF RAMSEY SECOND JUDICIAL DISTRICT
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The State of Minnesota,
by Hubert H. Humphrey, III,
its attorney general,
and
Blue Cross and Blue Shield
of Minnesota,
Plaintiffs,
vs. File No. C1-94-8565
Philip Morris Incorporated, R.J.
Reynolds Tobacco Company, Brown
& Williamson Tobacco Corporation,
B.A.T. Industries P.L.C., Lorillard
Tobacco Company, The American
Tobacco Company, Liggett Group, Inc.,
The Council for Tobacco Research-U.S.A.,
Inc., and The Tobacco Institute, Inc.,
Defendants.
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TRANSCRIPT OF PROCEEDINGS
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P R O C E E D I N G S.

THE CLERK: All rise. Ramsey District Court is now in session, the Honorable Kenneth J. Fitzpatrick now presiding.

(Jury enters the courtroom.)

THE CLERK: Please be seated.

THE COURT: Good morning.

(Collective "Good morning.")

THE COURT: Counsel.

MR. CIRESI: Thank you, Your Honor. Good morning, ladies and gentlemen.

(Collective "Good morning.")

JAMES F. GLENN

called as a witness, being previously sworn, was examined and testified as follows:

ADVERSE EXAMINATION (cont'd)

BY MR. CIRESI:

Q. Good morning, doctor.

A. Good morning.

Q. Doctor, when we recessed yesterday, we were discussing Exhibit 11434, which dealt with a discussion that had been held with Dr. Osdene from Philip Morris. Do you recall that?

A. Yes, sir.

Q. And we were talking about the portion of the document which related to the CTR. Do you recall that, sir?

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A. Yes.
Q. It's down at the bottom of page two, doctor.
A. Uh-huh.
Q. And there was a reference there that Dr. Wakeham may be giving advice to the president of Philip Morris. Do you recall that?
A. I -- I do.
Q. Can you direct your attention to Exhibit 11586.
A. I have it.
Q. Now this is a memorandum dated December 8th, 1970, to J. F. Cullman III from Dr. Wakeham; correct?
A. Yes.
Q. And it deals with the, quote, "'Best' Program for CTR;" correct?
A. Yes.
MR. CIRESI: Your Honor, we would offer Exhibit 11586.
MR. WEBER: No objection, Your Honor.
THE COURT: Court will receive 11586.
BY MR. CIRESI:
Q. Now Mr. Cullman at the time was the president of Philip Morris; correct, sir?

A. I believe so.
Q. And in this memorandum Dr. Wakeham was discussing what had transpired at a November 30th, 1970 meeting of the CTR Executive Committee; correct?
A. It so states.
Q. Have you reviewed this document?
A. No, sir.
Q. And the question that was being asked was what kind of CTR program is best for the industry; correct?
A. Correct.
Q. And under number -- paragraph numbered one is the stated objective or purpose of CTR; correct?
A. That's what it says.
Q. And it's reported there that the purpose was "To aid and assist research into tobacco use and health, and make available to the public factual information on this subject." Correct?
A. That is what is stated.
Q. And it is further stated that that has been interpreted narrowly so that CTR was providing financial support for research by scientists to provide data about lung cancer, heart disease, chronic respiratory ailments and other diseases; correct?

A. That is what is written.
Q. In other words, what's written is that the research was directed to basic research about diseases generally; correct, sir?
A. That is what is stated.
Q. And Dr. Wakeham then reports to the president of Philip Morris in paragraph two as follows: "It has been stated that CTR is a program to find out, quote,

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the truth about smoking and health, end of quote. What is truth to one is false to another. CTR and the industry have publicly and frequently denied what others find as 'truth.'" Let's face it. We are interested in evidence which we believe denies the allegation that cigarette smoking causes disease. If the CTR program is aimed in this direction, it is in effect trying to prove the negative, that cigarette smoking does not cause disease. Both lawyers and scientists will agree that this task is extremely difficult, if not impossible."

Now sir, from 1954 when CTR was first formed through 1970, did your investigation reveal that CTR, through the industry, was trying and interested in evidence which would deny the allegation that cigarette smoking causes disease?

A. No, sir.

Q. You do know that Dr. Little wrote that CRT's Scientific Advisory Board never accepted the hypothesis of the tar-guilt theory; correct?

A. I have seen this written, yes.

Q. Written by Dr. Little himself; correct, sir?

A. If the document is accurate, yes.

Q. Well do you have any reason to believe that Dr. Little, when he wrote that document, was lying?

A. No, sir.

Q. Do you have any reason to believe that Dr. Little, when he wrote that document, was not intending to convey the truth --

A. No, sir.

Q. -- to the recipient of that document?

A. No, sir.

Q. Now the Surgeon General, sir, has found that tar does have carcinogens in it; correct?

A. Correct.

Q. Many carcinogens; correct?

A. Yes.

Q. Tens of carcinogens; correct?

A. I'm sorry, I missed your question.

Q. Tens of carcinogens; correct?

A. Tens of carcinogens?

Q. Yes. Fifty, 60 carcinogens; correct?

A. I don't know -- those are your words, Mr. Ciresi. I don't know whether there are tens or fifties or whatever. There are carcinogens in condensate of smoke.

Q. And so yesterday when you said that the scientific community has not found carcinogens in tobacco smoke, that wasn't correct; was it?

MR. WEBER: Objection, that's a misstatement of the testimony.

Q. Carcinogens are cancer-producing; are they not?

THE COURT: Counsel, counsel, counsel, one moment, please. Allow him to answer your question.

You may answer the question asked.

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A. "Carcinogen" is the term applied to substances that can potentially cause cancer, but it doesn't necessarily mean that they do cause cancer. A carcinogen is an agent that has the potential for cellular alteration, but it does not necessarily follow that cancer will result from exposure to that given agent.
Q. But they -- they are cancer-producing particles; correct? Whether they do it in all cases or not, they're cancer-producing particles; correct?
A. No, sir, that's not what I said. I said that they have the potential for causing cancer, but

they --
Q. So that --
A. -- do not produce cancer necessarily.
Q. Necessarily. But they may produce cancer; correct?
A. May, in sufficient dose and sufficient length of exposure. There are many factors that relate to a carcinogen other than the fact that it is a noxious substance.
Q. And if they may produce cancer based on the length of exposure, such as persons smoking over a long period of time, and in sufficient doses, then they are cancer-producing; correct?
A. No, sir, that -- you're distorting what I have said.
Q. Doctor, you just said that they may produce cancer; did you not?
A. I said that they may, yes.
Q. Okay. And if they then do in fact produce cancer in some people, then they would be cancer-producing; correct?
A. You're distorting what I've said. And I think I said it very plainly, I -- I don't see any reason to go over it again.
Q. With all due respect, sir, you did say that they

may produce cancer; correct?
A. I did.
Q. All right. And I'm just asking you to assume, then, that they do produce cancer in a given person. Is it then a cancer-producing carcinogen, in your judgment?
A. I've explained that, the difference between an absolute and a -- and a given -- and a -- and a possibility, and I don't know that I can explain it any better.
Q. I didn't ask you about an absolute, doctor. You testified that the particles in smoke may produce cancer; correct?
A. No, I didn't. I have not used the word "particle."
Q. Well what did you use?
MR. WEBER: Objection, Your Honor. If he wants to show him some testimony, he should. This is

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asked and answered, repetitive.
THE COURT: I don't think we've got an answer yet.
Q. What word did you use, doctor?
A. "Substance."
Q. "Substance." I'll use your word.
And by "the substance," you mean the substance

in the smoke; correct?
A. Correct.
Q. And you don't think that's a particle in the smoke; correct?
A. Not necessarily.
Q. Okay. Well can it be a particle in the smoke?
A. There are particulate substances in smoke, but they -- not all of the substances in smoke are particles.
Q. Well, are there particles in smoke that cause -- that may cause cancer?
A. I don't know that.
Q. Okay. So you just don't have the expertise to answer that question; correct?
A. I don't believe anyone knows that, Mr. Ciresi.
Q. Have you read the '64 or '81 Surgeon General's reports?
A. Yes, sir.
Q. Let me hand you what has been marked, sir, as Exhibit 3838.
MR. CIRESI: May I approach, Your Honor?
THE COURT: Yes.
(Document handed to the witness.)
Q. Is that the 1981 Surgeon General report?
A. Yes, sir.

Q. Can you turn to page 34.
A. I have it.
Q. And sir, is there a table there that states "Major toxic agents in the particulate matter of cigarette smoke?"
A. Yes.
Q. And is there an asterisk after the title there? Do you see it?
A. Yes.
Q. And down at the bottom that asterisk says "Incomplete list?"
A. Yes.
Q. And there's also other definitions, that C denotes carcinogen; BC, bladder carcinogen; TI, tumor initiator, CoC, cocarcinogen; and CT, cilia toxic agent; and T, toxic agent.
A. Yes.
Q. And then if you go down this partial list of particulate matter of cigarette smoke, are various substances listed which are contained in cigarette smoke that are either carcinogens, cocarcinogens, toxic agents or ciliatoxic agents or tumor initiators?

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A. I see that.
Q. And that's biologic activity; correct?

A. Yes.
Q. And do you understand what the meaning of "biologic activity" is?
A. Yes, sir.
Q. What do you understand it to mean?
A. It means that it has some activity that may alter normal physiology or normal pharmacology.
Q. It will change the cells.
A. Correct.
Q. And under "BioLogic activity" in this Surgeon General's report from 1981 are listed the particulates that are cocancer -- cocarcinogens or carcinogens; correct, sir?
A. That is what is listed, yes.
Q. And do you recall yesterday that you stated as follows, "And it's" --
"Question: And it's the smoke constituents" --
MR. WEBER: We would request a reference, Your Honor.
MR. CIRESI: I'm sorry. Page 4497.
Q. "Question: And it's the smoke constituents which contain the tar; correct?
"Answer: Correct.
"And it's the tar which contains cancer-producing particles; correct?

"Answer: I'm not sure about that because it's never been proven.
"Question: You just don't know; correct?
"Answer: We just don't know. We still don't know.
"Question: You don't know; correct, sir?
"Answer: No, we don't.
"Question: I'm asking you. You do not know; correct?
"Answer: I do not know, nor does any member of the scientific community."
MR. WEBER: Objection, Your Honor, it's an improper use of the deposition. It's entirely consistent.
THE COURT: Do you have a question that you can ask?
MR. CIRESI: Yes.
THE COURT: All right.
BY MR. CIRESI:
Q. Now, sir, the members of the Surgeon General's staff and those who worked on the Surgeon General's report were members of the scientific community; were they not?
A. Yes.
Q. Learned members of the scientific community;

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correct?
A. Yes.
Q. Esteemed members of the scientific community; correct?
A. I suppose.
Q. And there are other Surgeon General reports which have reported carcinogenic particles of cigarette smoke condensate; aren't there?
A. Correct.
Q. Many reports; correct?
A. I've forgotten how many, but there are several.
Q. And in every one of those reports there were esteemed members of the scientific community which contributed to those reports; correct?
A. I would agree with that.
Q. Now can you direct your attention, sir, please, back to Exhibit 11586, which we were on. That's the memorandum from Dr. Wakeham to the president of Philip Morris, Mr. Cullman. Do you recall that?
A. Yes.
Q. Now in this memorandum in December of 1970, Dr. Wakeham is setting forth various options in terms of the type of research programs that the CTR might follow from that point forward; isn't he?
A. Correct.

Q. Option A, option B and option C; correct?
A. I see those.
Q. And option A was to aim the program in the future at contributing to the search for the causes of disease; correct?
A. That's what is stated.
Q. And then it states certain benefits or rationales and problems with doing that; correct?
A. That is so stated.
Q. Now, that option dealt with looking at basic research as we've defined it; correct, sir?
A. I'm not sure. I don't -- I don't think I understand your question.
Q. Okay. Not smoking and health, but simply basic research, looking at the diseases as opposed to looking at smoking and health itself, that's what I'm referring to. You understand that dichotomy?
A. No, sir, and I -- what you're asking me is inconsistent. Basic research doesn't look at the disease process, but rather the underlying alteration of the norm that predisposes to disease.
Q. It doesn't look at causative agents; does it?
A. Does not look at causative agents, except as they relate to the fundamental cellular process.
Q. So it looks at the cellular process, and that's

what option A was being directed to; correct, sir?
A. I don't understand your question. I think it is -- it says "Aim the program at contributing to the search for causes of disease, especially those

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diseases alleged to be caused by smoking."
Q. Right.
A. Well, you could aim the program in one of several ways, you could -- you could go specifically to chemical research, which is what Dr. Wakeham wanted to do, or you could go to disease itself and study it epidemiologically, or you could go to the fundamental research which would lead you to understand -- better understand the nature of the -- of the disease process.
Q. And that's --
He's referring to the latter here, if you go on to the next page --
A. I'm not sure he is.
Q. Well, why don't you go to the next page and take a look, because he's comparing what the CTR might do versus the national health research, which is looking at cancer generally. Do you see that?
A. You'll have to cite it for me, please, sir.
Q. Sure. "Problem 1. In a total national health research of 1,000 million dollars," which is a

billion dollars, "what impact will our contribution have? Is it even worth PR value?" Do you see that?
A. I see that.
Q. Okay. So he's referring to that basic research; is he not, sir? If you know.
A. I don't know that.
Q. Okay. Option B, can you look at option B, the second option.
A. Yes, sir.
Q. Here he's saying to "Use the CTR program as a means for establishing -- of establishing expert scientific witnesses who will testify on behalf of the industry in legislative halls, in litigations, at scientific meetings, and before the press and public;" correct?
A. That's what it states.
Q. And that's what CTR had been doing up to that point; hadn't it?
A. No, sir.
Q. You don't think so?
A. No, sir.
Q. Has your --
Did you investigate that to determine one way or the other?
A. I didn't investigate it specifically, but I'm

aware of the activities of CTR.
Q. Sir, did you investigate the activities of the CTR between 1954 and 1970 to determine that?
A. I am aware of the activities. I didn't -- I didn't go into any particular investigation.
Q. Okay. Can you see what Dr. Wakeham said back in 1970 about what that program had done?
A. I see what you have read to me, yes.
Q. "If this objective is the purpose of CTR, then a

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very limited, select grant program should be adequate to do the job. There would be little need for research contracts or an extensive staff in headquarters. One might also question how long it would take for the witnesses to acquire the 'taint' of industry money.

"I cannot judge the litigative value of this approach, but I am impressed by the legislative testimony we are able to muster at Congressional hearings. On the other hand, my contacts with scientists outside the Industry do not reveal an extensive awareness of, or appreciation for, the CTR program. It would be interesting to try to measure such awareness by the public, the medical profession, or by scientists at large. If after 16 years" --

And he's referring to the time the CTR was

formed; correct, sir?
A. I would judge that, yes.
Q. Okay. "If after 16 years and 20 million dollars such a study comes up with a blank, as I think it would, then we can only conclude that CTR as present -- presently organized and operated is not convincing the public that we are objectively seeking the 'truth' or 'establishing good faith in the scientific community.'" Now did I read that correctly?
A. You read it correctly. It's Dr. Wakeham's opinion.
Q. And Dr. Wakeham was involved through Philip Morris with the CTR back at that time; correct?
A. As I understand it, yes.
Q. And Mr. Cullman was heavily involved with the CTR back at that time; correct?
A. As I understand it, yes.
Q. And in his conclusion Dr. Wakeham suggests that "It would seem appropriate to explore during the next year or two how CTR might be serving the needs of the cigarette industry;" correct?
A. That is what is written.
Q. And it goes on to say, "The disparity of opinion on this subject within the Industry indicates that

the answer to the question is not obvious. If we (members of the Industry) cannot convince ourselves of a definite answer to the question 'how,' then we might very well decide it is wasted effort. If so, CTR should be terminated." Correct?
A. That is what Dr. Wakeham wrote.
Q. Now Dr. Wakeham sent this memorandum not only to the president of the company, but he also sent it to Mr. Millhiser, who was the vice chairman of the board at that time. Are you aware of that, sir?
A. I'm not aware of that, but I accept that.
Q. Okay. And are you aware that Mr. Goldsmith, the next member -- or carbon-copy recipient of this, was a senior executive who was to become president of

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Philip Morris?
A. I accept that.
Q. And Mr. Smith, who's listed, was the general counsel. Do you recall that?
A. No, sir. But I accept that.
Q. And Mr. Hugh Cullman was a senior vice-president. Are you aware of that?
A. I accept that.
Q. And Mr. Bowling was a senior vice-president and also on the board of directors of Philip Morris. Will you accept that?

A. I know Mr. Bowling.
Q. You do. So you know that he was a senior vice-president and on the board of directors; correct?
A. Yes.
Q. And Dr. Fagan was a senior scientist; correct?
A. I do not know Dr. Fagan.
Q. And you know that Dr. Osdene was a senior scientist; do you not?
A. I've been made aware of that, yes.
Q. Now from 1970 forward CTR continued to be controlled at its highest levels by the lawyers; didn't it?
A. No, sir. At no time was it controlled by the lawyers.
Q. Well they didn't select their projects against any scientific criteria; did they?
A. All of the projects selected by the Scientific Advisory Board of The Council for Tobacco Research were selected on scientific merit.
Q. Were they selected against specific scientific goals?
A. The specific goals of research projects identified for funding by the Scientific Advisory Board were quite simple: first, merit; second,

innovation; third, innovative approaches to research; and fourth, relevance to fundamental disease processes, particularly those associated with smoking and health.
Q. May I have that last one, sir? I'm sorry, the last one you just gave us.
A. Relevance to basic disease processes, particularly those diseases associated with smoking and health.
Q. Okay. So they weren't selected for purposes such as public relations, political positions and positions for litigation.
A. No, sir. Never.
Q. Never.
Can you direct your attention, sir, to Exhibit 10177, which is in volume one.
A. I have it.
Q. This is a confidential memorandum from Mr. C. H. Judge from A. W. Spears; correct?

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A. It so states, yes.
Q. Dated June 24th, 1974; correct?
A. Correct.
Q. Now Dr. Spears, you said yesterday -- I think you said -- was a very able scientist.
A. Yes.

Q. Was that your words?
A. Yes.
Q. Truthful man?
A. Yes.
Q. Honorable man?
A. Yes.
MR. CIRESI: Your Honor, we'd offer Exhibit 10177.
MR. WEBER: No objection to this, Your Honor. But we don't know yet whether the witness has ever seen it for foundation purposes.
MR. CIRESI: It's a Lorillard document produced from their files.
THE COURT: All right. The court will receive 10177.
BY MR. CIRESI:
Q. Now you know Dr. Spears; don't you?
A. Yes, I do.
Q. He's a Ph.D.; correct?
A. Yes.
Q. He's a chemist.
A. Yes.
Q. And he's the present CEO of Lorillard; correct?
A. Correct.
Q. Do you know if he testified in Congress in 1994?

A. I think he did, yes.
Q. Did he testify in Congress a few weeks ago?
A. I don't know. I think he did.
Q. Now we see here that this is a confidential memo to Mr. Judge; correct?
A. So states, yes.
Q. And Mr. Judge at that time was the CEO of Lorillard; correct?
A. I accept that.
Q. And he had been the head of the CTR; correct?
A. I don't recall that.
Q. Do you know if he served on the board of directors of the CTR?
A. I think he did.
Q. And Dr. Spears has served on the board of CTR; correct?
A. He does, yes.
Q. He does today; correct?
A. Yes.
Q. So you know him quite well; don't you?
A. I know him in -- in the business context. Our board meets twice a year for an hour each time.
Q. And you've discussed whether cigarette smoking causes diseases with him; haven't you?

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A. Not specifically, no.

Q. You've never had those discussions with Dr. Spears in the 11 years that you've been with the CTR?
A. We've never had that specific conversation.
Q. Never.
Have you ever had that specific conversation with any members of the board of CTR in the 11 years you served in that position?
A. We've had numerous conversations dealing with fundamental causes of cancer, particularly lung cancer, but we've never addressed the specific issue of cigarette etiology.
Q. So you -- you've never specifically discussed with any member of the board of CTR whether smoking causes cancer; correct?
A. Well we've discussed the subject, Mr. Ciresi, but I -- you asked me a specific question, had I discussed with Dr. Spears or with other members of the board the specific issue of cigarettes causing lung cancer. No, we haven't -- I haven't addressed that topic, simply because it hasn't come up. We've been addressing much more fundamental scientific problems.
Q. In 11 years it's never come up in the organization funded by the industry with any member of the board; correct?

MR. WEBER: Objection, Your Honor, asked and answered.
THE COURT: You may answer that.
A. The subject -- the subject of lung cancer obviously is of significant interest to our sponsors and to the CTR and the Scientific Advisory Board, and yes, we have discussed the broad, general subject, but as far as the specific question that you asked me, no, we haven't had a specific conversation to that effect.
Q. That's what I asked you. That specific subject matter, smoking causing cancer, you've never had a specific discussion with any member of the board in 11 years; correct?
MR. WEBER: Same objection, Your Honor.
THE COURT: You may answer that.
THE WITNESS: Your Honor, I've answered it three times.
A. The answer is no, we -- we haven't --
Q. Thank you.
A. -- addressed that specific point.
Q. Thank you.
Now in this memorandum Dr. Spears says, "Before attempting to discuss CTR, a brief review of the organizations contributing to research into tobacco

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and health seems to be appropriate." Do you see that?
A. I do.
Q. And he talks about "Harvard Project;" is that right?
MR. WEBER: Objection, Your Honor. Could we first determine whether the witness has ever seen this document before? There's no foundation laid.
THE COURT: Okay. I think you should inquire.
BY MR. CIRESI:
Q. This was one of the documents that was provided to your counsel to be used in your testimony. You're aware of that, sir?
A. I'm aware of that.
Q. Okay. And you've seen it; haven't you?
A. I have seen this.
Q. Thank you.
And in this memo Dr. Spears says, "Before attempting to discuss CTR, a brief review of the organizations contributing to research into tobacco and health seems to be appropriate." Correct?
A. That is what he states, yes.
Q. And then he talks about various research that's being done by various organizations; correct?

A. I see that.
Q. Including down, under seven, The Tobacco Research Council, which is over in the United Kingdom; correct?
A. Yes.
Q. And we've seen memoranda from them --
A. Yes.
Q. -- during the course of your testimony; correct?
A. Yes.
Q. And we've seen in those memoranda what members of the industry have said about CTR; haven't we?
A. Yes.
Q. Now, can you direct your attention over to page three, and I want to direct your attention down to the last paragraph.
"Historically, the joint industry funded smoking and health research programs have not been selected against specific scientific goals, but rather for various purposes such as public relations, political relations, position for litigation, et cetera." Do you see that, sir?
A. I see that.
Q. And that is Dr. Spears saying that; correct?
A. I judge that to be; it's part of his memorandum.
Q. And you said, I believe -- and let me know if I

miswrote this -- that "No, sir, never" have the programs been directed to those purposes; didn't you?
A. I did. And I would call your attention to the fact that Dr. Spears is speaking here about the joint industry funded projects, not CTR.

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Q. Sir, who funds CTR?
A. The industry. But --
Q. And do they jointly fund it based upon their percentage of the market for the preceding year?
A. Yes.
Q. He goes on to state, does he not, "Thus, it seems obvious that reviews of such programs for scientific relevance and merit in the smoking and health field are not likely to produce high ratings. In general, these programs have provided some buffer to public and political attack of the industry, as well as background for litigious strategy. However, the public and political attitudes toward smoking has seriously decayed with respect to the tobacco industry, and scientific and political attack has become intense, with efforts at forced product modification underway. Thus, we see the litigation threat of much more importance than that of legislation -- legislative and public acceptance of cigarette smoking. This suggests that goals should

be defined more on the basis of scientific aspects, public relations and the programs leading to such goals coordinated more by business on scientific management." Do you see that?
A. I do. You --
Q. And he's talking about in this program -- or in this memorandum the CTR and how to reorganize it; isn't he, sir?
A. Mr. Ciresi, I call your attention to the fact that you misread the sentence that reads, "Thus, we see the litigation threat of much lesser importance," not "more importance."
Q. Did I say "more?"
A. Yes, sir.
Q. Oh. Let me re -- restate that. "Thus, we see the litigation threat of much lesser importance than that of the legislative and public acceptance of cigarette smoking. This suggests that goals should be defined more on the basis of scientific aspects, public relations and the programs leading to such goals coordinated more by business on scientific management."
Did I read it correctly now?
A. Yes, sir.
Q. And before that time CTR and the industry was

more concerned with litigation; weren't they, sir?
A. Industry was clearly concerned about it. CTR was concerned with science, and this in fact is a plea on the part of Dr. Spears for a more business-like approach to the scientific aspects of research.
Q. Yes. What he's saying is that now, with CTR, we should redirect and refocus it away from litigation and PR and more toward scientific and public relations because that's where the attack is coming

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from; isn't that right, sir?
A. No, sir.
Q. You don't agree with that.
A. No, I do not, because he doesn't mention CTR in this paragraph at all.
Q. The whole --
A. And I would call your attention, Mr. Ciresi, to the fact that Dr. Spears is talking about a wide variety of research projects, they are listed one through 13, and they are outside of CTR. In item 14 he talks about CTR research which deals with epidemiology, bioassay development, genetics, primarily aimed at tumorigenesis -- the beginning of tumors -- and chronic pulmonary disease, but some activity in cardiovascular disease and smoking

motivation.
Q. Sir --
A. He defines the CTR program --
Q. Yes.
A. -- and he is addressing the question of the other programs. He mentioned -- he does not mention CTR at all in this paragraph in question.
Q. Did the --
A. And I interpret this as a plea for more support of scientific research.
Q. Did the Committee of Counsel run the Harvard program?
A. I have no idea.
Q. Do you know what the Committee of Counsel was?
A. Not really.
Q. Can you go on to the next page. "We see no way to coordinate without an organization and responsibility to coordinate.
"The writer" --
And the writer is Dr. Spears; correct?
A. Correct.
Q. -- "believes that only two mechanisms exist for this coordination: a working committee of industry representatives, and appointment of one individual for that purpose, with overall program and fiscal

responsibility.
"In the past, and currently, the Committee approach is in effect being used, paren, Committee of Council, close paren. However, representatives of the Committee generally -- generally lack the background to bring about scientific coordination and the time to bring about management coordination."
Do you see that, sir?
A. I see that.
Q. And he was talking about the Committee of Counsel which controlled the CTR and TI and others; wasn't he?
A. No, sir.
Q. Okay. Then --
A. They --

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Q. -- can you direct your attention, then --
MR. WEBER: Your Honor, the witness was cut off again.
THE COURT: Allow the witness to complete his answer.
Q. You said "No, sir;" didn't you?
A. I said "No, sir."
THE COURT: Is your answer complete?
THE WITNESS: Your Honor, I think there's a misprint here. I think Committee of Council is

misspelled, I think it's Counsel, C-o-u-n-s-e-l, meaning a committee of attorneys. But I don't know that. But there was never any Committee of Counsel for tobacco research other than its own Executive Committee that we've -- its own board of directors that we've talked about previously.
Q. Well, let's go take a look at Exhibit 10165, sir.
A. I have it.
Q. This is a memo dated 4/21/78, it's already in evidence, "Scientific Research Liaison Committee." This is by Mr. Judge, who was the president of CTR -- excuse me, president of Lorillard.
And he was on the board of directors of CTR from '74 to 1984; correct, sir?
A. I accept that.
Q. Okay. And this is another document that you've reviewed; correct?
A. No, sir, I have not seen this document.
Q. Well, this was presented and given notice to be used. Do you understand that?
MR. WEBER: Objection, Your Honor. The implication is that there's some obligation to show the witness all the documents that Mr. Ciresi lists.
THE COURT: It's an appropriate

implication. That's why we have notice, counsel.
BY MR. CIRESI:
Q. Do you know if this was noticed, sir? "Yes" or "no."
A. I -- I don't know.
Q. Okay. Now let me direct your attention to --
Well let me ask you to assume this, that this is written by Mr. Judge and he was on the CTR board.
A. I -- I don't see any signature to this. I --
Q. Sir --
A. I can't accept it was written by Mr. Judge.
Q. Well --
A. It may have been. I don't deny that it could have been, but --
Q. Can you accept it if it was represented by the defendants, specifically Mr. Spears, that it came from his files? Can you accept that, sir?
A. I don't know that. I accept what you tell me, Mr. Ciresi.
Q. Thank you.

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Now, in this memorandum Mr. Judge states, "We have again 'abdicated' the scientific research directional management of the Industry to the 'Lawyers' with virtually no involvement on the part of scientists or business management side of the

business." Do you see that?
A. I see that.
Q. And do you see down in the next paragraph, "Lorillard's management is opposed to the total industry future being in the hands of the Committee of Counsel." Do you see that?
A. I do.
Q. And now it's spelled the way you said it should have been spelled in Spears' memo; isn't it? It's s-e-l. Is that right?
A. Yes.
Q. So you knew about a Committee of Counsel; didn't you?
A. Well I only have a passing --
I've never had any dealings with a Committee of Counsel. I don't know that it even functions at this time. But I know that the lawyers for the sponsor companies do communicate, and I think the proper terminology is "Committee of Counsel."
Q. Did Mr. Spears ever tell you, in the 11 years you've been on the board, that he and Judge had had a conversation regarding the fact that the industry had abdicated its scientific research to the Committee of Counsel?
A. No, sir.

Q. Never had any discussion regarding that; is that right, sir?
A. I've had many discussions with Dr. Spears, but I've not had a discussion of that point.
Q. Any discussion about the fact the lawyers were controlling research?
A. No, sir.
Q. Never had that conversation.
A. No, sir.
Q. Did you have that conversation with any members of the board of directors of CTR?
A. It was never necessary, Mr. Ciresi.
Q. Now sir, do you know that special projects were established at CTR in the sixties?
A. Yes, sir.
Q. And those special projects were controlled by the lawyers?
A. No, sir.
Q. Do you know what the special projects were for?
A. Special projects were scientific research projects which were initiated at the instigation of the sponsor companies by independent scientists. CTR did not initiate those projects and they were not projects of the Scientific Advisory Board, but CTR was used as the conduit for funding the special

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projects that the sponsor companies wanted done.
Q. Were there lawyer special projects and CTR special projects?
A. I think counsel was probably involved in the company's decision about whether to support a given project or not, but the funding came from the sponsor companies.
Q. I know where the funding came from, sir, but the question is this: Were there lawyer special projects?
A. No, sir, not by my definition. I'm -- I'm certain that counsel participated in the company's decisions about which research they would sponsor, but they were company-sponsored projects.
Q. So they were company-sponsored projects implemented through the lawyers; is that right?
A. No, sir, I didn't say that. I don't know that.
Q. So you don't know one way or the other; correct?
A. I --
It is my understanding that they were company-sponsored projects.
Q. But sir, you testified that you don't guess, you only know or I don't know. Isn't that what you said?
A. I know that they were company-sponsored projects.

Q. And do you know if acting on behalf of the companies in sponsoring those projects were the lawyers? Do you know that?
A. I don't know that. I assume that the lawyers for the company may have participated in decisions.
Q. Well you've heard that the lawyers made those decisions; haven't you?
A. No, sir.
Q. Can you direct your attention to Exhibit 10197, please.
A. I have that.
Q. This is another document that was -- notice was provided to you, sir. Did you review this?
A. I think I have seen this in the distant past, but I'm not sure.
Q. All right.
A. I'm not certain of the origin of the document.
Q. By the way, Dr. Glenn, let me ask you this: We've been given notice of some 400 documents that will be used with you in your direct testimony by counsel. Have you reviewed all those documents?
A. No, sir. I've been very busy administering a research program and dealing with day-to-day operations, and the review of documents that are 40 and 50 years old really hasn't been at the top of my

list.

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Q. Hmm. Did the lawyers show you any of the 400 documents that they gave us notice that they might use with you?
A. Oh, yes.
MR. WEBER: Objection, Your Honor, it's an improper question.
THE COURT: Gentlemen, will you approach the bench, please.

(Side-bar conversation as follows:)

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(Side-bar conversation concluded.)

BY MR. CIRESI:
Q. Now doctor, I know you're busy doing what you do, but do you know how many of the documents that you did review?
A. I can't tell you the number, Mr. Ciresi, but many.
Q. Okay. That's over the last few days?
A. No, no, extending back over several months.
Q. Now --
A. I'm sure that I've forgotten some of them that I have reviewed, as you might expect.
Q. Very natural, sir. I understand that.
Now, this is one of the documents you reviewed?
A. I think so. As I read through it, I think I've seen this.
Q. Okay. Now these are Mr. Judge's notes. Are you aware of that, sir?
A. No, sir. It -- it is not dated and it is not signed, and I really could not determine the origin.
Q. It's been -- it's been represented to us by the defendants that that's whose notes they are. Were you told that?
A. No, sir.
MR. CIRESI: Your Honor, we'd offer Exhibit 10197.

MR. WEBER: No objection, Your Honor.
THE COURT: Court will receive 10197.
BY MR. CIRESI:
Q. Now this relates to a CTR meeting; correct?
A. I -- I interpret that to mean it is a meeting about CTR, because these are not only representatives from CTR, but also outside people.
Q. Well, Mr. Judge was on the CTR board of directors from 1974 to 1984; correct, sir?
A. I accept that.
Q. Okay. Mr. Yeaman, after he retired from Brown & Williamson as their lawyer, went and took a position of chairman of CTR; correct?
A. That's correct.
Q. And Dr. Gardner was a CTR scientific director; correct?

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A. Yes.
Q. Did he succeed Dr. Little?
A. Yes.
Q. So we know it's some time after 1971; correct?
A. I would accept that.
Q. And we know that, as you just testified, that Mr. Judge was on the board from 74 to '84 of CTR; correct?
A. I accept that.

Q. Okay. And Mr. Hockett was from CTR; correct?
A. Yes.
Q. Okay. And you know who Mr. Stevens is?
A. I think so.
Q. Okay. And who was he, sir?
A. If this is Mr. Arthur Stevens, he is vice-president of Lorillard.
Q. General counsel; correct?
A. General counsel, yes.
Q. Now, can you direct your attention down to the bottom portion. Do you see the notation next to the name "Yeaman?"
A. Yes.
Q. "Difficulty in justifying budget increase." Well I shouldn't say that. It says i-n-c-r. Would you take that to mean "increase," sir?
A. Yes.
Q. Okay. "Difficulty in justifying budget increase - 'We're trying to prove a negative.'" Do you see that?
A. I see that.
Q. That means that they were trying to prove that smoking didn't cause lung cancer; doesn't it?
A. I'm not sure of that.
Q. But you -- you did see that reference in a

previous memo we just looked at about proving the negative; didn't you?
A. Yes.
Q. And then it goes on to say as follows: "'CTR is the best & cheapest insurance the tobacco industry can buy and without it, the Industry would have to invent CTR or would be dead.'" See that?
A. I do.
Q. Now do you recall now seeing this memo?
A. Yes. I -- as I told you, I think I've seen -- I think it was sometime back.
Q. Did you go and ask any of these gentlemen, if they're still around, what was meant by that?
A. No, sir.
Q. Did you ask anybody to ask any of those gentlemen?
A. No, sir.
Q. Do you know if the industry felt that CTR was the best and cheapest insurance it could buy in order to keep itself from being dead?
A. I don't know that.

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Q. Do you know if the industry was involved in a united front in funding the CTR to make sure they would have the cheapest industry so they wouldn't be dead?

A. I don't understand your question.
Q. Did they combine together and work in combination to fund CTR?
A. Yes, and -- and they have from the very beginning.
Q. As a concert of activity; correct?
A. As a concert of activity?
Q. Yes.
A. Well I don't understand the use of the term. CTR has always been sponsored by the tobacco industry.
Q. They worked in concert to fund it; correct?
A. Well "concert," they were joint sponsors of CTR.
Q. Okay. And that means they worked in concert; correct?
A. Well, yes, that's fine.
Q. Now did other lawyers who retired from their companies become the head of CTR?
A. I'm not sure of the background of each of the chairmen of CTR. There were a number of them. They -- they rotated at regular intervals in the early days.
Q. They revolved through; didn't they?
A. I'm sorry?
Q. They revolved through, didn't they, the lawyers?

A. I wouldn't say they revolved, because their tenure would be two or three years, as I recall.
Q. Cy Hetsko from American, he was a director of CTR; wasn't he?
A. Who, sir?
Q. Hetsko.
A. Hetsko was a director of CTR but not a chairman. You asked me about chairmen, I think.
Q. And some of the lawyers were not only chairmen of CTR, they were also on the board of directors of CTR; correct?
A. Yes.
Q. Mr. Ramm was the president of CTR; wasn't he?
A. I've forgotten the terminology in those early days. I think that's probably correct.
Q. And he was the fellow who was mentioned in Judge's memo that we just looked at who was controlling CTR; wasn't he?
A. I'm sorry, I --
Can you give me a reference there?
Q. Sure. I believe it's Exhibit 10165, sir. Do you see here where Mr. Judge, in paragraph number two, wherein he's talking about the industry's future being in the hands of the Committee of Counsel, he says, "it's reminiscent of the late '60s when Ramm's

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group ran TI, CTR and everything else involved with Industry's public posture." Do you see that?
A. I see it as it's written. I don't accept the validity of that.
Q. Well this was written, sir -- and I represent to you -- by Mr. Judge. Do you understand that?
A. You have told me that, yes, sir.
Q. Okay. And it was written --
Would you accept this? It was written at a time when he didn't think it was going to be discovered in litigation.
MR. WEBER: Objection, Your Honor, it's argumentative and improper.
THE COURT: Sustained.
Q. Do you know if he intended to publish this to the public?
A. I have no idea.
Q. Do you think he voluntarily sent this out to the lawyers for the state of Minnesota?
MR. WEBER: Objection, Your Honor, same objection.
THE COURT: Sustained.
Q. Do you know if he voluntarily sent this?
MR. WEBER: Objection, Your Honor, it's argumentative, and it's violative of the court's

ruling.
THE COURT: Sustained.
Q. Now Mr. Ramm was the former general counsel of RJR; correct?
A. I -- I believe that to be correct, Mr. Ciresi. But this is from an era that I have no personal involvement.
Q. And that's my point, sir. So you don't know whether this is accurate or not, what Mr. Judge wrote; correct?
A. I don't know that any of this is accurate. These are somebody's notes, that's all I can tell.
Q. Okay. And you do know that Mr. Ramm was the chairman of CTR from 1971 to 1975, don't you, based on your review of the history?
A. I believe that's true, yes.
Q. Can you direct your attention, sir, to Exhibit 11501.
A. I have that, Mr. Ciresi.
Q. Now, I believe you said the special projects were started sometime back in 1965, mid -- mid-'60s; is that fair?
A. I didn't say that, but I think that's correct.
Q. Now Liggett participated at times in the special projects; didn't they?

A. I don't know.
Q. Can you direct your attention, then, to Exhibit

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11501. Do you see that this is a Liggett memorandum from -- the initial is F.P.H., and I'll represent to you that that's Mr. Haas, the general counsel. Do you recall he being the general counsel?
A. Yes.
Q. Okay. It's from Mr. Haas to Mr. Harrington, who was the president of Liggett; correct?
A. Correct.
Q. And it's dated February 2nd, 1971; correct?
A. Yes, sir.
Q. And it deals with a proposal on research dealing with immunologic aspects of cancer; correct?
A. Correct.
MR. CIRESI: Your Honor, we'd offer Exhibit 11501.
MR. WEBER: No objection, Your Honor.
THE COURT: Court will receive 11501.
BY MR. CIRESI:
Q. Now sir, in reviewing the history of CTR, did you ascertain that one of the special projects that was funded was at Washington University?
A. Yes, as a matter of fact.
Q. And that's in St. Louis; correct?

A. Correct.
Q. Okay. And if you look at this memorandum, you'll see in the first paragraph that Mr. Haas was referencing a proposed project at Washington University; correct?
A. Yes.
Q. And you recall that the special project at Washington University dealt with the immunologic health aspects of cancer?
A. I would have to refer to our list of special projects to confirm that specifically, but I accept that.
Q. Okay.
A. The special projects were accomplished in some of the most distinguished universities and medical centers in the country, of which Washington University is one.
Q. Thank you, sir.
Now can you direct your attention to the second paragraph. It's set forth there that the project would be five -- a five-year project; correct?
A. Correct.
Q. And it was going to be 400,000 dollars an annum; correct?
A. That is so stated.

Q. And Liggett's share would be 32,000 dollars a year; correct?
A. It so states.
Q. And Mr. Haas here references the fact that that would be what Liggett's contribution is if all the other companies participated; correct?
A. It so states.

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Q. And he also states that Reynolds, Brown & Williamson, Philip Morris and Lorillard had already approved it; correct?
A. Correct.
Q. And he says that Mr. Hardy expects the approval of American in the near future; correct?
A. I read that, yes.
Q. And do you know who Mr. Hardy was?
A. Mr. Hardy was one of the attorneys for American Tobacco.
Q. An outside lawyer; correct?
A. I believe so.
Q. Is that Shook, Hardy & Bacon?
A. I believe so.
Q. Long-time lawyers for the tobacco industry?
A. Yes, I believe so.
Q. Okay. They're representing some of the defendants in this case?

A. I think so.
Q. And Mr. Hardy expected the approval of American in the near future; correct?
A. It so states.
Q. Now can you look at the next paragraph, sir, where Mr. Haas reports as follows: "It seems to me that one of the principal reasons we resigned from CTR is that it was shooting with a blunderbuss instead of a rifle. My analysis of this project and discussions with Dave Hardy indicate that the project is designed to attack the disease itself as the project is in no way to be correlated with the smoking habits of the persons concerned."
Do you see that?
A. I read that, yes.
Q. And you understand that to mean that this study would not look at smoking at all; correct?
A. I -- it says "in no way correlated with the smoking habits of persons concerned."
Q. Okay. And can you turn to the last page, then, of this document, sir, where Mr. Haas reports the following: "I believe that this project warrants our serious consideration. We have contributed for seven years to" --
Is that AMA?

A. I believe it to be.
Q. -- "AMA-ERF at the rate of 156,000 dollars a year and unhappily very little has inured to our benefit. I repeat that this seems to be shooting with a rifle and warrants our serious consideration. I do not see how it could ricochet to our detriment since the smoking habit has no part in the study and, as I said at the outset, the project is not involved in finding causation." Do you see that, sir?
A. I see that.
Q. Now, the special projects and other research at CTR were in fact directed so that they did not

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ricochet to the detriment of the industry; correct?
A. No, sir.
Q. Not at all.
A. No, sir.
Q. And projects were not selected so that they weren't involved in finding causation; is that right?
A. No, sir, that's not correct. The science supported by CTR under the guidance of the Scientific Advisory Board was directed toward merit of the project and toward better understanding of fundamental disease processes, as I've explained previously.
Q. Well sir, over 80 percent, over 80 percent of

the CTR grant recipients have indicated in surveys that none of their research, current or past, examined the health effects of smoking; isn't that right?
A. No, sir, that's incorrect. The figures you're citing are from a very superficial survey of former grantees done by an epidemiologist, and the figures are incorrect. In the first place, the response from the grantees was scanty, and to draw the inference that you're drawing is really extrapolating inadvisedly.
Q. Well --
A. Furthermore, the question that was asked was -- in -- in that survey was: "Does your research relate directly to smoking?" And the -- and the honest answer on the part of the investigators would have to be no, because they were working on fundamental disease processes.
Q. Right. They weren't working on smoking; correct, sir?
A. Yes, we were, because -- they were, because understanding fundamental disease process is really going to be the key to understand the diseases that are associated with smoking.
Q. "Does your research relate directly to smoking?

And the honest answer on the part of the investigators would have had to be no." Is that what you said?
A. Yes.
Q. Now in that survey over 80 percent of the respondents said that; correct?
A. In that survey, which is subject to a great deal of criticism.
Q. Well --
A. And I think you've taken my statement out of context. I explained why they would say no.
Q. Sir, when that survey was conducted, it went out to the members of the Scientific Advisory Board of the CTR; correct?
A. I believe so.
Q. And some of those members refused to respond; correct?

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A. I don't know who responded and who did not.
Q. Well this survey took place during the time that you were with the CTR; didn't it?
A. Yes.
Q. And a letter went out from the CTR to those Scientific Advisory Board members; didn't it?
A. Correct.
Q. And you urged the people not to cooperate;

didn't you?
A. I don't believe I used those -- those terms, but I pointed out to them that this was a very superficial sort of survey.
Q. Well, whether you used exactly those words, that was the import; correct?
A. No, sir. I'm sure that the words speak for themselves. I don't have a copy of the letter at hand.
Q. Sir, in 1993, would it be fair to state that approximately 10 of the 296 studies in the CTR index had anything to do with tobacco?
A. That would be inaccurate, because we have focused on basic research that leads to better understanding of the diseases that are associated with smoking, so the 10 projects in which tobacco is mentioned just happened to be obvious.
Q. Can you direct your attention to Exhibit 4700, which is your testimony in front of the Subcommittee of the Health and the Environment.
A. Do I have that?
Q. Yes. It is in volume number one.
THE REPORTER: Is that 4700, Mr. Ciresi?
MR. CIRESI: 4700.
MR. WEBER: Your Honor, if I -- if I could

ask, we don't have -- none of the defendants have that on their designation list.
MR. CIRESI: Should be on.
THE COURT: Why don't we take a short recess at this time and make sure that defendants have that.
MR. WEBER: Thank you.
(Recess taken.)
THE CLERK: All rise. Court is again in session.
(Jury enters the courtroom.)
THE CLERK: Please be seated.
THE COURT: Counsel.
MR. WEBER: I can't remember where we were right now, Your Honor, on the Exhibit 4700 issue.
MR. CIRESI: We're right there.
MR. WEBER: If we're there, then -- and if the court would like to hear from me, I'm prepared to do that.
THE COURT: Yes.
MR. WEBER: Okay. I think that what we figured out over the break is that 4700 was not

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predesignated for Dr. Glenn's testimony. What was predesignated is marked as 3419. They are two separate documents. One of them is about a

400-some-page transcript of hearings before a House committee. That's the one that was not designated, 4700. The one that was designated is 3419, which is the portion of that hearing that includes Dr. Glenn's testimony.

So with respect to 4700, I would object because it's filled with hearsay and other statements and other testimony, et cetera, so I would object to that one. Plus it wasn't predesignated.

With respect to 3419 --

Do you want me to go ahead and deal with that?

MR. CIRESI: May I respond, Your Honor?

THE COURT: All right, go ahead.

MR. CIRESI: We may not have to introduce the exhibit. We provided 4700 because it is the entire proceeding in the event counsel would suggest that 3419 may have been taken out of context, so we provided 4700 so the doctor would have the entire proceeding there. We're going to go to that portion of the proceeding which was his testimony, which is 3419. Depending upon his testimony here in court, we may not enter the exhibit at all. So I think we can deal with it as we proceed with the questions. But 3419, which was designated, includes a portion of 4700, but he now has it all in the event he wanted to

look at somebody else's testimony.

THE COURT: All right. Why don't we go ahead, then, see --

As we go along, you can make your objection, if necessary, if it's going to be actually introduced.

MR. WEBER: So they'll offer -- the motion to introduce Exhibit 4700 is withdrawn then?

MR. CIRESI: I never offered 4700, I simply directed his attention to 4700.

THE COURT: Okay.

MR. WEBER: Thank you, Your Honor.

BY MR. CIRESI:

Q. Now doctor, again let me direct your attention to Exhibit 4700. Do you recall giving testimony in 1994 to the Subcommittee on Health and the Environment of the Committee on Energy and Commerce, House of Representatives?

A. Yes, sir.

Q. And when we recessed here, did you go out and reread your testimony?

A. No, sir.

Q. You didn't look at it at all?

A. No, sir.

Q. Nobody pointed it out to you.

A. No, sir.

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Q. Now doctor, would you agree that the CTR submits annual reports?
A. Yes.
Q. And in 1993, of the 296 studies in your index which were funded for about 19 and a half million dollars in grants, only 10, or about 10 of the projects had anything to do with tobacco. You don't dispute that; do you?
A. Yes, I do.
Q. All right. Would you take a look at page 368 of the testimony that you gave under oath in Congress.
A. Page 368.
Q. Three six eight.
Do you have 368?
A. I -- I do now, yes.
Q. All right. You'll see at the top Representative -- or Congressman Sinars is asking a question.
A. Yes.
Q. All right. I want to direct your attention to the second question. Did you give the following answers to the following questions under oath at that time:
"CONGRESSMAN SYNAR: Are you familiar with your counsel report of 1993?

"MR. GLENN: I am.
"MR. SYNAR: Of the 296 studies in your index, wheere you funded about 19.5 million in grants, as I see from the index, only 10, or about 10 of the projects have anything to do with tobacco. Do you dispute that?
"MR. GLENN: No, sir."
Did you give those answers to those questions under oath in Congress in 1994?
A. I did. But you're taking that out of context, Mr. Ciresi.
Q. Excuse me, sir.
A. I had already explained to the congressional subcommittee the nature of basic biomedical research and how it does relate. Mr. Synar was talking about specific tobacco-related projects.
Q. Right. And that's what I am talking about, tobacco-related projects. And that's what those questions related to; correct, sir?
A. You make me feel inadequate. I thought I explained that the research that we've supported and continue to support is fundamental, and it -- it's clearly related to tobacco.
Q. Sir, you gave those answers to those questions under oath in front of Congress; correct?

A. I did.
Q. Thank you.
A. And --

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Q. Thank you.
A. -- after having given a prior explanation. And I think if you refer back to my opening statements to the congressional subcommittee, you'll find all of that is explained.
Q. Sir, I'm only talking about what Mr. Synar, Congressman Synar was talking about, and that's projects which have anything to do with tobacco. And he asked whether you disputed that and you said no, sir. I'm not talking about fundamental, basic research into cancer, I'm talking about tobacco. Do you understand that?
A. I hear you, yes, sir.
Q. Thank you.
Now you're aware that the industry attempted to avoid research which might indict cigarettes; are you not?
A. No, sir.
Q. Can you direct your attention to Exhibit 11624.
A. Can I ask if we're finished with 4700?
Q. I am, sir.
MR. WEBER: I'm sorry, Mr. Ciresi, can I

get the number again.
MR. CIRESI: 11624.
A. I have that.
Q. And that is a memorandum to Mr. Goldsmith from Mr. Seligman of Philip Morris?
A. Correct.
Q. And you know that Mr. Goldsmith was the senior vice-president, Philip Morris?
A. I believe so.
Q. He was on their board of directors; correct?
A. I believe so.
Q. And Mr. Seligman was vice-president, research and development?
A. I think that's correct.
Q. Okay. And this memo to Mr. Goldsmith from Mr. Seligman attaches a memo from Dr. Osdene; correct?
A. Yes.
MR. CIRESI: Your Honor, we'd offer Exhibit 11624.
MR. WEBER: No objection, Your Honor.
THE COURT: Court will receive 11264 -- 624, excuse me, 11624.
BY MR. CIRESI:
Q. Now sir, we see the memorandum. It's dated November 30th, 1977; correct?

A. Correct.
Q. And it's from Mr. Seligman to Mr. Goldsmith and the subject is "Council for Tobacco Research Program." Correct?
A. It so states.
Q. And Mr. Seligman is reporting here that on November 22nd Mr. Osdene represented Philip Morris at a CTR program review session; correct?

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A. That is what it states, yes.
Q. And that in addition to his trip report, Mr. Osdene wrote a memo to Mr. Seligman commenting about what he word -- heard; correct?
A. It appears so.
Q. And he attached a copy of that personal and confidential memo; correct?
A. Yes.
Q. And Mr. Seligman wanted to bring this to the attention of Mr. Goldsmith because Mr. Goldsmith was a member of the Executive Committee of the CTR; correct?
A. That is what is -- what is stated here.
Q. And Mr. Osdene was disturbed about the trends that were developing in the CTR program; correct?
A. It appears so.
Q. And because of the nature of Mr. Osdene's

memorandum -- or Dr. Osdene's memorandum, Mr. Seligman gave it a very limited distribution; correct?
A. He so states, yes.
Q. Can you direct your attention, then, to the next page, which is the attached memorandum of Dr. Osdene to Dr. Seligman dated November 29th, 1977, and marked "PERSONAL & CONFIDENTIAL" in the upper left-hand corner. Do you see that?
A. I do.
Q. Subject, "Some Comments about the CTR Program."
"I was amazed at the trend that the contract work is taking. For openers Dr. Donald H. Ford, a new staff member, makes the following quotes:
"'Opiates and nicotine may be similar in action.'
"'We accept the fact that nicotine is habituating.'
"'There is a relationship between nicotine and the opiates.'"
Do you see that?
A. I do.
Q. Okay. Are you familiar with Dr. Ford's work?
A. Yes.
Q. And he was a researcher who had been funded by

the CTR?
A. Ford was a staff member of CTR.
Q. Was his work funded?
A. I don't know whether Dr. Ford had any grants before he came with the CTR staff or not. Memory fails me about that. Dr. Ford was a member of the CTR scientific staff.
Q. And how long --
A. He was a neuroanatomist by training and a neuropharmacologist, and he -- these are apparently concepts which he expressed.
Q. How long was Dr. Ford with the CTR?
A. For probably 15 years, perhaps longer.

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Q. Fifteen.
Is he still with the CTR?
A. No. He's retired.
Q. Okay. Now this is about 11 years before the Surgeon General found nicotine addictive; correct?
A. That's correct.
Q. And compared nicotine to cocaine; correct?
A. Opiates. I don't believe cocaine is mentioned specifically here.
Q. Is -- is cocaine an opiate?
A. Cocaine is a -- the cocaine family is --
When you speak of opiates, you're really talking

about the opium family.
Q. Well is it part of that family?
A. Well, yes.
Q. Thank you.
Now Dr. Osdene goes on to state, "Dr. Leo Abood" --
And he was from the University of Rochester; correct?
A. Yes.
Q. He was a consultant for the industry?
A. He was --
Yes, I think so.
Q. He was on the Scientific Advisory Board of the CTR?
A. Subsequently, yes.
Q. And how long did he serve on that board, sir?
A. Until his death a month ago.
Q. All right. And at this time Dr. Abood, whose presentation showed a high degree of competence, has one of his aims a specific antagonist to nicotine; correct?
A. That is so written.
Q. And do you know what an antagonist to nicotine would be?
A. Well it would be a substance which would

counteract the effect of nicotine.
Q. What effect of nicotine?
A. But I think it's misstated in this memorandum. What Dr. Abood really was researching was not an antagonist to nicotine, but a substitute.
Q. Oh, he wanted a substitute for nicotine, not an antagonist; is that right?
A. I don't know what he wanted. I'm just -- I'm just speaking factually about his research.
Q. Now an antagonist to nicotine, though, would, you said, negate the effects of nicotine; correct?
A. I think that's correct, yes.
Q. What are the effects of nicotine?
A. Well it --
Are you sure you want to hear this? Because it's -- it's a pretty complex thing. My -- my understanding of it is incomplete.
Q. All right.

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A. But I will be happy to share what information I have, if you like.
Q. So you're not an expert in nicotine.
A. I'm not an expert, no.
Q. All right. Now what would be a clinically acceptable antagonist to nicotine? What -- what does that mean, "clinically acceptable?" One that could

be used by patients?
A. I don't know exactly what you mean by "clinically acceptable antagonist."
Q. Well, that's what Dr. Osdene's reported here, "could well lead to a clinically acceptable antagonist." Is it your testimony you don't know what that means, sir?
A. I'm not sure what they -- what they meant.
Q. Fair enough.
Then he mentions a Dr. Kreisher, if I'm pronouncing that correctly. Or is it Kreisher?
A. Kreisher.
Q. Kreisher. And he works in the area of AAH. And what's AAH?
A. Aero aromatic hydrocarbons.
Q. Aromatic hydrocarbons.
A. Yes.
Q. Part of the benzoid ring hydrocarbons?
A. Yes.
Q. Are they alkanes?
A. I can't tell you that.
Q. Are they carcinogenic?
A. I can't tell you that either.
Q. And Dr. Kreisher's work in the area of aromatic hydrocarbons starts out with the proposition that

smoking causes lung cancer. Do you see that?
A. I do.
Q. And Dr. Osdene reports to Dr. Seligman that the rest of the work seems to justify this approach. "I am very surprised about the extensive human clinical data which is now being sought and feel that after four years of this project nobody has the slightest idea where it is going, where it is, or what it is trying to prove.
"It is my strong feeling that with the progress that has been claimed, we are in the process of digging our own grave."
Now have you conducted any investigation into the history of CTR to see what type of progress had been claimed at that point in time with regard to this work?
A. I haven't conducted an investigation. I'm aware of the progressive nature of the research program at CTR.
Q. Well I'm talking about Dr. Kreisher's work.
A. I'm aware of that.
Q. Okay. Have you investigated to see what facts led to Dr. Osdene's statement that "we are in the

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process of digging our own grave?"
A. This is a memo written by Osdene, who is a

chemist, who may or may not have understood what was explained to him.
Q. I see. Well, doctor, you're aware, are you not, that every one of the manufacturing defendants in their research and development departments, they were loaded with chemists? You knew that.
A. I don't know that. I accept that.
Q. Chemists are the ones who did the work in pharmacology and toxicology; aren't they?
A. No, they don't do work in pharmacology or toxicology. They are chemists.
Q. So they don't do any work in --
A chemist does no work in pharmacology or toxicology.
A. No. Ordinarily you would expect that biomedical research would be done by a biomedical scientist, not physical scientists.
Q. Who hold chemical degrees?
A. Chemical degree is a physical degree.
Q. Did Dr. Spears conduct any of that type of work?
A. I have no idea.
Q. Now if Dr. Kreisher's work was showing that smoking causes cancer, would that be digging the grave of the defendant manufacturers?
A. Dr. Kreisher was not doing the work. Dr.

Kreisher was a member of the scientific staff.
Q. If the work, sir, was showing that smoking caused lung cancer, would that dig the grave of the defendants?
A. This -- this is Dr. -- Mr. Osdene's opinion, and -- and I accept what is written here.
Q. Do you believe that if smoking causes lung cancer, it would dig the graves of the defendants?
A. Well I think that's hyperbole. I think that's overstating the problem. Everyone, even at this stage in 1977, knew the risk factors of smoking --
Q. That's not what I asked you.
A. -- in relation to -- to lung cancer.
Q. That's not what I asked you. If the industry --
Let me put it this way: If the industry stood up and said, "We admit smoking causes cancer," do you think that would have an impact?
A. Mr. Ciresi, to go back to the area of causation -- and we can talk about this for a long time, --
Q. No, sir --
A. -- if -- if you accept "cause" in the scientific sense, nobody's going to get up and say that.
Q. Sir, if --
A. If you say "risk factor," then clearly the

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industry has already acknowledged that and the general public is well aware of it. So this -- this statement of Osdene's regarding digging our own grave is far from scientific.

Q. Now maybe you can answer my question. If the industry --

MR. WEBER: Objection to the commentary again, Your Honor.

MR. CIRESI: Well --

THE COURT: Just ask your question, counsel.

Q. Sir, please listen to my question.

If the industry stood up like they testify in Congress, if they lined up the six CEOs and they all raised their right hand, took the oath, and they were asked the question: "Does smoking cause lung cancer?" and they all said "Yes," do you think that would have an impact on the public? "Yes" or "no," or you don't know.

MR. WEBER: Object to the instruction as to how the witness should answer the question, Your Honor.

THE COURT: Yes. Don't instruct the witness.

MR. CIRESI: Okay.

Q. Can you answer that question?

A. I'm certain it would have an impact on the public, yes.

Q. Thank you.

Now Dr. Osdene goes on to state, "I believe that the program has set up -- as set up has the potential of great damage to the industry, and I strongly urge that the whole relationship of our company to CTR be carefully reviewed. I am very much afraid that the direction of the work being taken by CTR is totally detrimental to our position, and undermines the public posture we have taken to outsiders." Do you see that?

A. I do.

Q. Now, "outsiders" would be the public; correct?

A. I presume, yes.

Q. Smokers; correct?

A. And non-smokers.

Q. Congressmen; correct?

A. Correct.

Q. Public health officials; correct?

A. And others.

Q. And the position that the companies had taken at that time was that smoking does not cause lung cancer; correct?

A. That is what is implied.

Q. And you know that's the position that the companies were taking at that time; correct?

A. No, I -- I can't translate myself back to 1977

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and put myself inside those people's heads.
Q. Well let me ask it this way, sir: You know that today the companies take the public position that smoking does not cause lung cancer. You know that.
A. We're back to the issue of causation and the scientific terminology. If you accept the term "cause" in the lay sense; that is, is it involved with -- statistically and epidemiologically involved with lung cancer, then the answer is of course, yes.
Q. The companies today take the position that smoking does not cause lung cancer; correct?
A. Again, we have to define the terminology "cause."
Q. Sir, can you tell me one company who has stood up and said -- besides Liggett -- one company that has stood up and said, "Smoking causes lung cancer?" Name me one.
A. Mr. Ciresi, they're not going to say it causes it because that implies a universal cause-and-effect relationship, and that simply does not exist.
Q. Sir --

A. If you say tuberculosis is caused by the tubercle Bacillus and we can consistently identify the tubercle Bacillus in the diseased tissue, then that's one-on-one. We know it is -- the tubercle Bacillus is the cause of tuberculosis and it is replicated time after time. But not every smoker has lung cancer and many people who don't smoke have lung cancer, so there are a lot of enigmas, mysteries that still surround the whole issue. And to say smoking causes lung cancer without defining the term "cause" puts you in serious jeopardy.
Q. Sir, can you name one company who has stood up and said -- besides Liggett -- "Smoking causes lung cancer?"
A. No, sir.
Q. Can you --
A. And I doubt they ever would say it in that -- in those terms because that simply is inaccurate.
Q. Now you mentioned tuberculosis; didn't you?
A. I did.
Q. And you said something about a virus that causes tuberculosis?
A. No, sir, I did not.
Q. What -- what did you say?
A. I said the tubercle Bacillus.

Q. The tubercle Bacillus. Is that a parasite?
A. Is that what?
Q. Is that a parasite?
A. No, sir.
Q. What is it?
A. It's a bacterium.
Q. It's a bacterium.
So the tubercle Bacillus causes tuberculosis in every case; correct?

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A. If the patient has tuberculosis, it is caused by the tubercle Bacillus universally.
Q. Now what you're using there is the Jacob Henle and the Robert Koch postulates; aren't you?
A. Koch's postulates are fulfilled by that equation, yes.
Q. And that's Henle and Koch postulate; isn't it, sir? They were two scientists in the 1800s; right?
A. Yes.
Q. And they came up with postulates for what they called cause; correct?
A. Correct.
Q. And one was that --
And this is based on 19th century knowledge of bacterial disease; correct?
A. Correct.

Q. And they said that a parasite was a cause if it occurs in every case of the disease; correct?
A. Correct.
Q. If it occurs in no other disease; correct?
A. I'm not sure of that.
Q. You don't know the Henle Koch postulates; do you, sir?
A. Yes, sir, I do know Koch's postulates.
Q. All right. That is the second postulate, isn't it, it occurs in no other disease?
A. It occurs in no other disease.
Q. That's the second one.
A. Of --
But that does not include the related diseases.
Q. And the third postulate was after being isolated from the body, grown in a pure culture and repeatedly passed, it would induce the disease again; correct?
A. Yes, sir.
Q. Those were the three Koch's postulates; correct?
A. I have so stipulated.
Q. All right. Now do you believe that the Epstein-Barr virus causes infectious mononucleosis?
A. Possibly, yes.
Q. You know it does; don't you, sir?
A. Yes.

Q. Yes, you do.
And that was found by Werner Henle, Robert Henle -- or Jacob Henle's grandson; correct?
A. I don't know that.
Q. You don't know.
And not one of his grandfather's postulates was met by the -- by that virus; isn't that right, sir? Not one.
A. Well that doesn't have anything to do with my prior statement relative to the absolute relationship between smoking and lung cancer.
Q. But you just said that the Epstein-Barr virus causes infectious mononucleosis; didn't you?
A. Yes.

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Q. And it doesn't occur in every case of infectious mononucleosis; does it, sir?
A. That's why I hedged my initial answer to you. It doesn't occur in every case.
Q. And smoking doesn't cause in every smoker lung disease; does it?
A. No. As a matter of fact, only in a small minority.
Q. Now with regard to the Epstein-Barr virus, it occurred in other diseases; didn't it?
A. Yes.

Q. Okay.
A. I don't understand the thrust of your question.
Q. Well I'm seeing whether or not, where you say that Epstein-Barr virus causes infectious mononucleosis -- causes -- whether it fits the Henle Koch's postulates, and we're finding out that it doesn't fit the Henle Koch's postulates; aren't we, sir?
A. Yes. But I was talking about tuberculosis.
Q. Oh. Well, should we talk about typhoid or diphtheria?
A. No. I was talking about tuberculosis.
Q. How about cholera?
A. I was talking about tuberculosis.
Q. Scientists for decades have found cause regardless of whether the Henle Koch's postulates are met; haven't they, doctor? If you can answer.
A. Mr. Ciresi, I don't want to argue with you about this.
Q. I'm not arguing either, sir. I've asked a simple question. Scientists for decades --
MR. WEBER: Object to the commentary again, Your Honor.
MR. CIRESI: Well, Your Honor, he said he didn't want to argue with me.

THE COURT: All right. You can ask the question.
BY MR. CIRESI:
Q. Scientists for decades have found cause and effect in the absence of Henle Koch's postulates; haven't they?
A. In some instances. But I wasn't referring to scientists and -- and the Koch's postulates, not "Koch's." I was talking about tuberculosis.
Q. I know you were.
A. That's a --
Q. I know you picked --
A. -- one-on-one equation.
Q. I know you picked tuberculosis, sir. I know that, the jury knows it, the court knows it.
MR. WEBER: Objection, Your Honor.
THE COURT: Ask a question, counsel.
BY MR. CIRESI:
Q. Now, do you know of any other cancer that has

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been researched epidemiologically, toxicologically, in other ways, over the last 40 years as lung cancer and smoking? Can you name any other disease?
A. I'm sorry, I don't understand your question.
Q. Do you know how many studies have been conducted on lung cancer and smoking?

A. How many studies?
Q. Yes.
A. No, I can't tell you that. But an infinite number.
Q. And sir, when scientists make judgment on causation, they don't look at just the Henle Koch's postulates; do they? They look at other factors; correct?
A. There are -- there are many factors, obviously.
Q. They look at the experimental approach; don't they?
A. Correct.
Q. They look at the temporal associations; don't they?
A. Correct.
Q. They look at consistency of those associations; don't they?
A. I would think so.
Q. They look at the strength of those associations; don't they?
A. Yes, sir.
Q. They look at the coherence of the associations,; don't they?
A. I imagine.
Q. And then they make a judgment based upon cause

and effect; don't they?
A. Yes.
Q. And the Surgeon General of the United States since 1964 has used those scientific methods in determining that smoking causes a variety of diseases; haven't they?
A. True.
Q. Based on reports in the medical literature and the judgments of hundreds of scientists in this country and around the world; correct?
A. Many of those scientists were supported by CTR grants.
Q. Sir, is your answer yes?
A. Yes.
Q. Thank you.
And yet to this day, besides Liggett, not one of these other defendants, manufacturing defendants in this case, who pay your salary, have stood up and said to the American people, "Smoking causes cancer;" have they?
MR. WEBER: Objection, Your Honor, it's asked and answered from before. It's also argumentative.
THE COURT: It's not argumentative. It's

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been asked and answered.

Q. Sir, you talked about the resources that the industry has contributed to CTR; is that correct?
A. Spoke about what, Mr. Ciresi?
Q. The resources that the industry has contributed to CTR to conduct these studies.
A. By "resources," do you mean funding?
Q. Money.
A. Money. Yes.
Q. That's a resource; correct?
A. Yes.
Q. Okay.
A. But I -- I thought you were introducing another document.
Q. Let me --
No. Fair enough.
A. Industry has funded research that has been fostered by CTR and its Scientific Advisory Board.
Q. Okay. And the board, then, funnels out this money to various institutions around the country; correct?
A. Well I -- it's not quite that simple. There is intense competition for grant funding, and it's -- the process of grant application and grant review and grant approval and funding is not simply funneling out money.

Q. Well many institutions in the country won't accept money from CTR; will they?
A. Oh, there are a few.
Q. Harvard?
A. Harvard accepts money. We've got a number of grants at Harvard. One current member and one former member of our Scientific Advisory Board was from Harvard.
Q. Former member.
A. One former member and --
Q. Now --
A. -- one current member.
Q. Now by using the term "funnel," I didn't mean to imply anything nefarious by that. The CTR takes a look at various scientists who want money to conduct research, and they make a judgment whether that would be a worthwhile project; correct?
A. No, sir, that's not the way it's done. There's a very formal, structured application process where projects are presented to the Scientific Advisory Board by the investigators.
Q. And --
A. So --
Q. -- the investigator is the applicant who wants money to fund a project; correct?

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A. Correct.
Q. All right. And then that is reviewed by the Scientific Advisory Board; correct?
A. Correct.
Q. And do you have a budget at that time?
A. Yes.
Q. Okay. And then what happens next?
A. Well the -- it would be simpler if we just went through the entire review process from beginning to end. But what happens next, very simply, is the projects presented at a given time in a given cycle are reviewed and weighted by merit on the opinion of the Scientific Advisory Board. And it is competitive. A score is awarded. The rating process is identical to that used by the National Institutes of Health. And the projects which receive the highest rating are those that are funded.
Q. Okay. So there's a rating system and then you fund certain programs; correct?
A. Yes, sir.
Q. All right. Now are there -- are there subjects that are avoided?
A. Not really. There are subjects that are beyond our scope of interest which -- and we don't encourage a grant application in something that is foreign to

our interest. We've -- we've focused on fundamental research that will shed light in the areas of interest; namely, in smoking and health.
Q. Can you -- I'm sorry. Were you done?
A. That includes pulmonary disease, cardiovascular disease, cancer, with a focus on the fundamental aspects of molecular and cellular biology, immunology, genetics.
Q. Can you --
A. So we really haven't been interested in -- in, let's say, orthopedic problems, or in problems that are totally, distinctly out of the area of smoking and health.
Q. Doctor, can you direct your attention to Exhibit 10166. It's a Philip Morris document dated March 31, 1980.
A. I have that.
MR. WEBER: Your Honor, if I could inquire, we're checking among our various lists and don't have that on our designations. If we could just have one minute and perhaps check with plaintiffs' counsel.
THE COURT: All right. Why don't you hold just a minute, though.
Go ahead.
MR. CIRESI: I may have misspoke. Did I

say 10166? 10166.
THE COURT: That's what you said.
MR. CIRESI: Okay.
MR. WEBER: We have a 10165, not a 10166.
MR. CIRESI: We may have missed that, Your

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Honor. That's our fault. We'll withdraw that.
THE COURT: All right.
BY MR. CIRESI:
Q. Now doctor, with regard to the resources -- and by "resources" I mean money -- do you submit a budget to the tobacco companies on a yearly basis?
A. Yes, sir.
Q. Is that before or after you review?
A. Well the review process is a continuous operation, culminating in grant awards twice yearly. The budget process is also a continuing process. As we receive increasingly good grant applications, higher and higher quality, and as inflation takes its toll, we factor in increases in the research budget as we approach the industry for funding.
Q. Okay. Can you direct your attention, then, to Exhibit 20187.
Do you have it, sir?
A. I have that.
Q. All right. Now let me ask you, first of all, in

preparing for your testimony, did you ascertain how much had been spent by the tobacco companies in terms of funding to CTR from 1954 to 1994?
A. I don't think I've ever seen this document, --
Q. That's not what I asked you.
A. -- Mr. Ciresi.
I know you didn't ask me, but I just want you to know if your questions are predicated on this document, I need time to look at it.
Q. We'll get to that. I just wanted you to turn there so that when we get there you'll -- you'll have it. Okay? Right now my question is very simple.
In preparing for your testimony, were you told or did you investigate how much money the tobacco companies funded CTR with for the period 1954 to 1994?
A. That would --
Well the current amount of research funds that -- funding that we have distributed comes to about 285 million dollars. In 1994, three or four years back, I suppose it would be 225 million, give or take.
Q. Well that was what you were told, was it not, in preparing for testimony?
A. I was not told this. These are -- these are

facts from our files.
Q. Oh, yes. So you were aware of that.
A. I'm sorry?
Q. You were aware of that number.
A. I am aware of the numbers, certainly.
Q. All right. And that would be 225.8 million; is that right?
A. I don't have the figures in front of me, Mr. Ciresi. You obviously do. I told you about 225 million dollars several years ago. I think that's

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correct.
Q. All right. Would you now take a look at Exhibit 20187, the one that is in front of you.
A. I see it, but I haven't had time to absorb it.
Q. All right. Please take a look at it. Take the time you need, sir.
A. All right.
Q. Okay. And I specifically would like to direct your attention to the second page, which shows total contributions to CTR for the period 1954 to 1994. Do you see that, over on the right-hand side of that?
A. Yes.
Q. Okay.
MR. CIRESI: Your Honor, we're going to offer Exhibit 20187, --

MR. WEBER: Your Honor, I would object to that.
MR. CIRESI: -- which --
MR. WEBER: It appears to be an expert report of one of their experts, and I think it's inappropriate for them to try to introduce it without the expert. If they want --
It appears that part of this includes a demonstrative exhibit or two. I have no objection to them using their demonstrative exhibits or two on the representation that they'll tie it up later with testimony, but I would object to the report itself and anything beyond their demonstratives. I hope that --
MR. CIRESI: If counsel would kindly wait until I'm done making my offer of proof, Your Honor, then I believe it would be appropriate for him to make his record.
THE COURT: All right.
MR. CIRESI: Your Honor, we'd offer Exhibit 20187, which is from Exhibit 2177, which was admitted pursuant to Rule 1006 on February 11 during the testimony of Mr. Merryman, and in that memorandum there was -- or excuse me, in that exhibit there was stated by company the amount of money spent by CTR

and the advertising and promotion amount of money spent, there was also the total domestic sales, and all of those amounts come from the defendants' answers to interrogatories which were provided in this case, together with their annual reports and their SEC filings.
Exhibit 20187 simply totals up from that document, which is admitted into evidence, and it's being offered for that purpose, together with the demonstrative exhibits contained therein.
MR. WEBER: As -- as counsel is aware -- Your Honor, we could address this at side bar if the court would prefer. But there is a dispute as to which -- as to whether, in that initial admission, it was only the demonstratives that Mr.

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Ciresi referred to, or whether they somehow introduced their entire expert report through a witness who hadn't prepared it. And -- and that's -- that's the issue I was trying to address by focusing on these demonstratives. I have no problem with the demonstratives, but there is a fundamental issue about just what is in evidence with respect to that other exhibit Mr. Ciresi referred to.

THE COURT: Is this just a summary of that -- of those figures from the other exhibit?

MR. CIRESI: That's correct, Your Honor.

THE COURT: Do you dispute that, counsel?

MR. WEBER: With respect to the expert report?

THE COURT: No, with respect to 2177.

MR. WEBER: 2177 has a variety of Mr. Much's calculations in it. Yes, it does.

THE COURT: Are you disputing that this is a summary of that?

MR. WEBER: No, not with respect to the -- with -- with respect to that situation. The issue is just what is in evidence, though, Your Honor.

THE COURT: All right. Well if it's --

I'm going to receive it if it's just a summary. You can move to strike it if you check that and find out that this is not in fact an accurate summary.

MR. WEBER: Okay.

THE COURT: Okay?

BY MR. CIRESI:

Q. Now sir, if we look at Exhibit 2187, then, and we look at the first pie chart --

THE COURT: It will be received.

MR. CIRESI: Thank you, Your Honor.

If you could pull that up a little to see if we can -- if you could move a little bit to the -- the

other way. Well, that's fine.

Q. First we have the total domestic sales of the company during this period of time. Do you see that, sir?

A. I do.

Q. 417,143,247,147 dollars; correct?

A. Correct.

Q. And we show, based on the information provided by the defendants, that the total amount contributed to CTR during that period of time was 326,040,272 dollars. Do you see that?

A. Yes, sir. I accept the figures. I'm not sure of the accuracy.

Q. I understand.

Now if we go to the next pie chart --

And while that's being put up, sir, I understand that what you said is your best recollection is there was 225 million, roughly, that was spent on funding projects during that period of time; right?

A. Funding grants in aid. And in addition to that

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you would have special projects, and in addition to that you would have overhead of operating the office, and then in addition to that you would have compensation of the members of the Scientific Advisory Board.

Q. Right. And that's what we're going to get to. So right now we're just showing the total funding of the CTR. You understand that.
A. I'm -- I can't verify that this figure is correct, but it -- it's certainly within reason.
Q. All right. Now you understand, though, that it comes from the defendants' own documents. You understand that.
A. It may -- may very well.
Q. All right.
A. I just don't -- I don't recognize this figure.
The grants awarded during that interval of 40 years come to approximately 225 million. Now it would appear there's another hundred million dollars that would have gone to special projects, gone to overhead, expenses of operating the office, heat, lights -- heat, light and water, and expenses of staff and Scientific Advisory Board.
Q. I'll grant you that. So we're just -- we're sort of giving you the benefit of the entire amount here, 326 million. Do you see that?
A. I see it.
Q. All right. Now --
A. But I can't verify it.
Q. I understand. I just want you to know that it

comes from the defendants' answers to interrogatories, which are sworn answers, and from their own documents. Do you understand that?
A. I accept what you tell me, Mr. Ciresi.
Q. Thank you.
Now if we go to the total contributions to CTR, including that 326 million, that entire amount -- do you see that -- and we compare it to total advertising, marketing and promotion by these companies during that period of time, we see that what was spent on advertising, marketing and promotion was 47,083,702,001 dollars. Do you see that?
A. I see that number, yes.
Q. And that would be for the period from 1954 through 1994; correct, sir?
A. That is the label.
Q. Okay. So that little sliver there is what was sent over to CTR, in comparison to what was spent on marketing, advertising and promotion; correct?
A. That is what the chart reveals.
Q. Now would you accept -- once again I'm asking you to accept -- my calculation that the 326 million, if it was all spent on medical research, that would be about 8.15 million dollars a year; is that right?

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A. On average?
Q. Yes.
A. I -- I accept your arithmetic.
Q. Okay. And on average the companies would have been spending one billion 175 million dollars on marketing, promotion and advertising during that period of time. Do you accept that?
A. I -- I will, yes.
Q. So that the percentage spent looking at the health issue as contrasted with marketing the product was about seven-tenths of one percent on average per year. Would you accept that?
A. I'll accept that, with the provision that this is unique. There is no other industry that has funded biomedical research to the same extent that the tobacco industry has.
Q. How many industries are you aware of, doctor, where it is reported that their product kills 417,000 Americans a year? How many other industries?
A. I can't -- I can't tell you that. We -- we've got a lot of problems with environmental contamination, with automobile accidents and failures, with asbestos, with a host of other societal problems, and I can't answer that question.
Q. Not one is even close. Is there, sir?

A. I can't answer your question.
Q. That's another one where you don't want to guess because if you don't know, you don't say anything; correct?
A. That's right.
Q. You've never looked at that issue; have you?
A. I'm sorry, I have looked at the issues. I just related to you some things that come quickly to mind.
Q. Have you investigated what other industry --
A. No, sir.
Q. Thank you.
Now if we take a look at what -- what you said was spent on grants and contracts and special projects, we could take a look at Defendants' Exhibit 1962A. Can you look at that.
MR. WEBER: Your Honor, I'd -- I would object to this. This is a defense demonstrative, and pursuant to the court's order they were to be disclosed, but there was nothing in the court's order that said parties could start using each other's demonstrative exhibits prior to the time the party had used it. It was a disclosure exchange pursuant to the court's order.
MR. CIRESI: Well certainly he's not arguing about the foundation on this, Your Honor.

It's his exhibit.

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THE COURT: Well, has he had a chance to look at it?
MR. CIRESI: Yes, I gave -- I gave him notice of this.
THE COURT: Okay.
MR. WEBER: He put it on his list, and our position is that the demonstrative exchange pursuant to the court's order was that the parties had a right to use their own demonstratives, not that that gave other parties the right to put demonstratives out before the party had its own option to do so.
THE COURT: Well, I certainly haven't prohibited it. I don't -- I don't see what the problem is, unless I'm missing something.
MR. WEBER: Well it's just simply an issue of a party preparing a demonstrative, having to exchange it, the court order, and wanting to use it in the course of the presentation of its own case. That's the issue I raise, Your Honor.
THE COURT: Okay. I don't see a serious problem.
Go ahead.
MR. CIRESI: Your Honor, we'd offer the Defense Exhibit 1962A.

A. I'm sorry, I'm missing a number.
Q. It's in volume one, sir.
A. And it is --
Q. Right in the front. I'm sorry, I should have directed you to the right volume. Do you have it, doctor?
A. I have it now.
Q. And you have seen this document before?
A. Yes.
Q. Okay. And did you look at this when you were preparing for your examination?
A. Yes.
Q. So if we add the two numbers here --
You show the grant-in-aid and contracts, 225.8 million; correct?
A. Correct.
Q. And that's 1255 research projects over the 40 years; correct?
A. Correct.
Q. And 1,051 researchers; correct?
A. Yes.
Q. And 5400 publications; correct?
A. Yes.
Q. Now --
THE COURT: Excuse me. Excuse me, counsel.

Q. And then --
THE COURT: Counsel, this has not been received in evidence.
MR. CIRESI: I'm sorry, I thought I offered it. I apologize.
THE COURT: You offered it. It hasn't been

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received.
MR. CIRESI: I apologize, Your Honor. I thought it was offered. I thought you received it.
THE COURT: It was offered, it was not received.
MR. CIRESI: Oh, you have to give -- I'm sorry, Your Honor, we have the new process.
THE COURT: Well I don't mean to be testy, but --
MR. CIRESI: No, it's our fault.
THE COURT: -- we're losing control of the exhibits if they aren't given immediately to the reporter. Okay?
MR. CIRESI: Is it received now, Your Honor?
THE COURT: 1962A is received.
MR. CIRESI: I apologize to the court.
THE COURT: All right.
BY MR. CIRESI:

Q. Doctor, we'll go back to it now. You have 225.8 million for grant-in-aids; correct?
A. Yes, sir.
Q. And for CTR special projects, 18.1 million; correct?
A. Yes.
Q. So you've got a total of two hundred and what, forty-three point nine million?
A. Yes.
Q. And that would be over 40 years; correct?
A. Yes.
Q. And that means that from what we had, we showed you had 326 million, so about 86 million dollars would have gone to administration or other expenses during that period of time; correct?
A. And overhead, yes.
Q. Yes. And that would be roughly about -- little over two million dollars a year during that 40-year period.
A. Approximately, yes.
Q. Okay. So if we have, let's say, 240 million dollars divided by the 40 years, that's six million dollars a year that went to contracts for research, on average; is that right?
A. Contracts and grants.

Q. Grants and special projects.
A. And special projects.
Q. On average; correct?
A. Well you've done the arithmetic there. I haven't done that, so --
Q. Would you accept that?
A. Yes.
Q. Okay. Two hundred forty divided by 40 is six million dollars a year; correct?
A. Yes.
Q. Now we still have the one billion 175 million

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dollars per year spent on advertising, marketing and promotion; correct?
A. I don't know that. I can't verify that number. But it doesn't surprise me.
Q. So that based on your numbers, your numbers, this industry would have spent one-half of one percent per year on average what it spent on marketing, promoting and advertising its product; isn't that right?
A. Yes. But I -- that's apples and oranges. If they hadn't advertised and sold their product, we wouldn't have had anything for our research budget.
Q. If they hadn't advertised and marketed and promoted their product, we might not be here today;

right, sir?
A. Oh, I expect you would have been here, Mr. Ciresi.
Q. You do.
Now many of the grantees of the CTR have found that smoking increases the risk for diseases; correct?
A. You'll have to rephrase that for me.
Q. Sure.
Researchers who have conducted research funded by the CTR have found that smoking increases the risk of diseases; correct?
A. Yes.
Q. Now has the CTR ever conducted a survey of its researchers to ascertain how many of them believe in their scientific judgment that smoking causes lung cancer?
A. No, sir. I -- I think our -- the investigators that we've supported are sophisticated enough to have figured out for themselves the relationship between smoking and various diseases. No, we've not undertaken any such survey.
Q. Has the CTR ever conducted a survey of its grantees to determine how many of them believe scientifically that smoking causes chronic

obstructive pulmonary disease?
A. No. The answer is the same.
Q. Have you ever conducted a survey to determine how many of the grantees believe that smoking causes oral cancer?
A. No. And the answer is the same. And we again come back to the old issue of causation.
Q. Has the CTR ever conducted a survey of its own grantees to determine how many of them believe that smoking causes laryngeal cancer?
A. No, sir. And the answer is the same.
Q. Has the CTR ever conducted a survey of its own grantees to determine how many of them believe that smoking causes esophageal cancer?
A. No, sir. And the answer is the same.
Q. Is the answer the same for kidney cancer?

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A. Yes, sir.
Q. Is the answer the same for bladder cancer?
A. Yes, sir.
Q. Is the answer the same for pancreatic cancer?
A. Yes, sir.
Q. Is the answer the same for heart disease?
A. Yes, sir.
Q. So CTR has never conducted any survey of any of its grantees with respect to their beliefs as

scientists as to what diseases are caused by smoking; correct?
A. We never had occasion to do that, no.
Q. Now sir, can you direct your attention to Exhibit 11561, which would be in book two, sir.
A. I have it.
Q. Now this is a memo that is a Liggett document dated March 15th, 1961. Do you see that, sir?
A. Yes.
Q. Okay. Now this was -- notice was given of this document. Did you have an opportunity to review it?
A. No, sir.
Q. Okay. Let me direct your attention to the top. You see it's a -- on the letterhead of Arthur D. Little?
A. I see that.
Q. Okay. And it's designated "CONFIDENTIAL & LIMITED," do you see that?
A. I see that.
Q. And you'll recall that Arthur D. Little was one of the research organizations that you said was respected; correct?
A. Yes.
Q. And it was in that 1958 trip report that we looked at where the three scientists came over from

England and visited all of the companies and institutions?
A. I recall that.
Q. Okay. And it's reported here that, number one, "There are biologically active materials present in cigarette tobacco.
"These are: cancer causing
"cancer promoting
"poisonous"
And "stimulating, pleasurable, and flavorful." Do you see that?
A. I see that.
Q. Okay. Now Liggett funded some studies at CTR and special projects over the course of the last 40 years; has it not?
A. Liggett was out and in and out, and I can't reconstruct that because it was far before my time.
Q. Okay. But you -- you know based on your investigation into the history that Liggett was in and out of CTR; is that right?
A. Yes.

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Q. And when they were in, they were funding some projects, including special projects; correct?
A. I don't know that, no.
Q. Well we saw that one special project at

Washington University that they were going to fund. Do you recall that one?
A. I don't -- I don't recall that that was a special project. I don't -- I don't remember that. They were talking about a potential study at Washington University. I don't even know whether it was done or not.
Q. Maybe I misunderstood you, sir, and I apologize -- apologize if I did. I thought you had said that you recalled that there was a study or a special project that was done at Washington University.
A. No, I -- I recall that Washington University has had funding from us, and I misspoke if I --
Q. All right.
A. -- said anything else.
Q. So they had funding, and it may have been special projects or it may have been a grant; is that right?
A. Yes.
Q. All right. Now, are you aware that other defendant manufacturers, back in the fifties and sixties, had found cancer-causing and cancer-promoting biologically active materials in cigarette tobacco?

A. Ask me that again.
MR. CIRESI: Certainly. Could we have the question back, please, Mr. Stirewalt.
(Record read by the court reporter.)
A. Yes.
Q. And when did you learn that?
A. Well I -- I don't know. Cumulative information over the years. I know that the companies have done a great deal of chemical investigation, and indeed identified certain chemicals as potentially carcinogenic.
Q. Did the companies advise you of that during the time you've been with CTR?
A. I don't know where -- where the information derives. Did we have a specific conference to discuss the issue? No. But I certainly acquired the information, and I can't tell you the origin.
Q. But it would have been from the companies themselves; correct?
A. Yes.
Q. And are you aware that Brown & Williamson back in 1952 had isolated benzopyrene?
A. Not specifically, no.
Q. Can you take a look at Exhibit 13555.
A. I have that.

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Q. This is another document that notice was provided. Did you get an opportunity to look at this one, sir?
A. I don't believe I've seen this one, no.
Q. And you can see that it's a Brown & Williamson document?
A. It appears to be, yes.
Q. Would you kindly turn your attention to page nine. And I'm not using the Bates number now, just nine at the bottom.
By the way, it's dated 24th of December, 1952; correct?
A. Page nine?
Q. Yes. And sir, the -- the first page was dated December 24, 1952?
A. Yes.
Q. Okay. And page nine at the bottom, do you see where it says "CANCER?"
A. Yes.
Q. And do you see there in the third paragraph, "The B&W lab has in the past made a partial isolation and identification of the aromatic hydrocarbons, benzopyrene, in both smoke and original tobacco from RALEIGH blend cigarettes. More conclusive evidence will be forthcoming from the chemical analysis." See

that?
A. I see that statement, yes.
Q. And in the course of your investigations, did you come to learn that the companies knew as early as 1952 that there were carcinogenic-causing particles or elements in cigarette smoke?
A. Mr. Ciresi, I didn't do any investigation of this issue, and there was no reason for me to. And this is an internal company document, and there would be no way that I would have seen this previously.
Q. Okay. But let -- let me ask this, doctor: When you joined the CTR, you knew that you were going to have some part in allocating funds for research; correct?
A. Correct.
Q. Felt that was an important thing to do?
A. I think it is a unique opportunity. I've been very gratified by the chance to support the biomedical research effort.
Q. And when a scientist or a doctor does that, she or he wants to learn about what the sponsoring companies might know about the product; correct?
A. Yes.
Q. And you wanted to do that; didn't you?
A. Yes.

Q. And you would agree that generally the companies know more about their products than anybody else.

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Fair?
A. I'm not sure of that. It's a fair assumption, but I'm not certain that's true.
Q. Now when you joined the companies, did you say to RJR, "I'd like to sit down with your scientists as I want to satisfy myself what you know about your product?"
A. No, sir, I did not.
Q. Did you sit down with Philip Morris and say to the officials there, "I want to know what you know about your product?"
A. No.
Q. Did you sit down with Brown & Williamson and do that?
A. No.
Q. Did you sit down with any of the defendant manufacturers and do that?
A. No. And there was no reason to.
Q. So you didn't see any reason to educate yourself at that time with regard to what the companies knew about their products.
A. Mr. Ciresi, at the time I joined the Scientific Advisory Board I already knew of carcinogenic

substances that had been identified and associated with condensate of tobacco smoke. I didn't need to sit down with their scientists to find this out.
Q. That's not what I asked you.
A. This was -- this was knowledge that was in the -- in the public domain.
Q. Sir, that's not what I asked you, though. I asked you whether or not you wanted to sit down with them to find out what they knew, what they knew about their products, since, as you said, it's fair to assume that manufacturers know more about their products than anybody else.
Didn't you want to learn what they knew?
A. Well I think -- I think you're mistaking the mission of CTR. Our mission is not to investigate the company research, our mission is to support biomedical research. And it is beyond the realm of my charge to sit down with the company scientists, as you say.
Q. So let me see if I understand. Your charge was not to find out what the companies knew. Fair?
A. Well I think that's fair, yes.
Q. Okay. And you know that The Tobacco Institute's charge wasn't to find out what the companies knew. You know that; don't you?

A. I know nothing about The Tobacco Institute. I've had no interchange with it. As -- as I understand it, The Tobacco Institute is the public relations arm and -- of the industry, and that is not a part of -- of my expertise.
Q. We have the industry, which are the manufacturers; correct?

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A. Yes.
Q. We have CTR, which is a research arm of the industry; correct?
A. Well it's not a research arm of the industry. It is a -- it is a biomedical research funding institution that in turn is funded by the tobacco industry.
Q. And it's going to be dissolved if immunity is given to the industry; isn't it?
A. The recommendation of the attorneys general --
MR. WEBER: Objection. Objection to the mischaracterization again, Your Honor.
THE COURT: Okay. I don't think it's relevant, counsel.
Q. We have CTR, we have the tobacco industry, and then we have The Tobacco Institute; correct?
A. Those three entities exist, yes.
Q. Do you know of any other entity that's funded by

the tobacco industry on a united basis where they pay for all the salaries, pay for all the activities, other than their own companies, CTR and TI?
A. I don't know of anything else, but there certainly might be other organizations.
Q. Now, assuming those are the three, and I want you to assume that it wasn't your responsibility to find out what the companies knew, and I want you to assume that it wasn't TI's responsibility to find out what the companies knew, then the only ones that could tell the American public, indeed the world, of what the companies knew would be the companies; correct?
MR. WEBER: Let me object to that, Your Honor, it's argumentative and filled with assumptions.
THE COURT: Well you may answer that.
A. I can't answer that question. I suppose you're -- you're correct in your assumption.
Q. Okay. And you would agree, would you not, doctor, that it is fair and reasonable for the American public, when they are given a representation by the industry, as they were in the Frank Statement, to rely on the industry to tell the American public what they knew?

A. I don't know that that -- that appears in the Frank Statement.
Q. You don't know what appears in the Frank Statement?
A. Your statement that the industry will disclose all of their internal research findings.
Q. Well when they say that they will cooperate closely with those whose task it is to safeguard the public health, when they say we accept an interest in people's health as a basic responsibility, paramount to every other consideration in our business, don't you believe they're saying they're going to tell the

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public what they know?
A. I think -- I think it says exactly what it says.
Q. Don't you think that means they're going to tell the public exactly what they know about their product with regard to health? Don't you think that, sir?
A. Mr. Ciresi, your question begs a simplistic answer, and that can't be given. While we know that there are carcinogens in cigarette smoke, nobody has ever been able to produce cancer in any experimental animals by exposure to these chemicals. Therefore, one could say, yeah, if you go out and tell everybody that there are carcinogens in there, it will be misinterpreted. We still don't know the fundamental

cause of lung cancer, although we know perfectly well that it is associated in much higher incidence in smokers than it is in non-smokers.
Q. Sir, my question is: Do you not believe it is fair for the American public to rely on the representations of the industry in the Frank Statement that the industry would disclose what they knew about their product?
A. It doesn't state that in the Frank Statement.
Q. So when the industry said that we accept a responsibility in the public health, paramount to all other considerations in our business, that doesn't mean that the industry was saying they would disclose what they knew about their product and when they knew it; is that right?
A. I think it means exactly what it said, that they accept a paramount interest in public health, period.
Q. And "paramount" means at the highest level; doesn't it?
A. I think so.
Q. And when one is worried about their health with the use of a product, you would expect the manufacturer to tell you all that it knows about its product; correct, since that is paramount?
A. I don't think that necessarily follows. I -- I

think the fact that the companies were doing research of this type -- I'm happy to see this document. I think the fact that they were doing this kind of research is admirable.
Q. In 1961, do you know if Liggett told the American public that they had cancer-causing and cancer-promoting biologically active materials in their cigarettes?
A. I -- I do not know what Liggett may have told the public in 1961.
Q. Do you have any idea how many children have started smoking since 1961?
A. No, sir.
Q. Can you direct your attention, doctor, to Exhibit 12418.
MR. WEBER: Your Honor, might now be a good time for our break, or --

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THE COURT: Okay. All right. We'll recess, reconvene at 2:00 o'clock.
(Recess taken.)

AFTERNOON SESSION.
THE CLERK: All rise. Court is again in session.
(Jury enters the courtroom.)
THE CLERK: Please be seated.
THE COURT: Counsel.
MR. CIRESI: Thank you, Your Honor. Good afternoon, ladies and gentlemen.
(Collective "Good afternoon.")
BY MR. CIRESI:
Q. Good afternoon, doctor.
A. Good afternoon, Mr. Ciresi.
Q. Doctor, when we'd recessed, I'd asked you to direct your attention to Exhibit 12418, and that is in volume two.
A. I have it.
Q. All right. You'll recall, sir, when we recessed, we were discussing the issue of the defendants' investigation into the presence of carcinogenic compounds in the cigarette smoke. Do you remember that?
A. Correct.
Q. Now this is a memo dated November 2nd, 1959 to Mr. Kenneth H. Hoover, who at the time was research director for RJR, and it's from Dr. Rodgman, Alan

Rodgman. Do you see his name on the last page there?
A. I see it.
Q. And did you have an opportunity to review this document before you came in to testify?
A. I don't recall having seen this document.
MR. CIRESI: Your Honor, we'd offer Exhibit 12418.
MR. WEBER: No objection, Your Honor.
THE COURT: Court will receive 12418.
BY MR. CIRESI:
Q. Doctor, were you aware that the defendants discovered the presence of carcinogenic substances in the tobacco smoke before others in the public discovered that information?
A. I don't know that, Mr. Ciresi.
Q. You see that this memo is dated November 2nd, 1959?
A. Yes, I do.
Q. And it's to Mr. Hoover; correct?
A. I presume that. It doesn't say to Mr. Hoover, it's got Mr. Hoover's name at the top.
Q. Now --

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A. There's no letterhead.
Q. Okay. Do you see that in the first paragraph it is reported that "In 1954 the first report of the

presence of a carcinogenic, paren, cancer-producing, close paren, polycyclic hydrocarbon 3,4-benzpyrene in cigarette smoke was published?" Do you see that?
A. That is the statement, yes.
Q. Okay. Now you do know that, based on the document you looked at this morning, that benzopyrene was discovered prior to that by Brown & Williamson?
A. I don't know that. I saw the document.
Q. Well the document reported that; correct, doctor?
A. Yes.
Q. In fact, two years before this; correct?
A. I think that's right.
Q. And this memorandum of Dr. Rodgman then goes on to state that, "Since then," talking about 1954, "approximately 60 similar compounds have been isolated from the smoke of cigarettes." Correct?
A. That is so stated.
Q. Now do you know if in 1959 there had been published reports of 60 carcinogenic -- which are cancer-producing -- polycyclic hydrocarbons that had been reported in the published literature? Do you know?
A. I don't know that.
Q. Did you ever conduct any investigation to

determine that?
A. No, sir.
Q. Do you know if the CTR ever conducted such an investigation?
A. No.
Q. Do you know if any of the defendants ever conducted such an investigation?
A. I don't know that.
Q. Now it goes on to say, "Eight of the polycyclic hydrocarbons isolated from the smoke are known to produce cancer in mice. Another five or six are suspect as cancer-producing agents in laboratory animals.
"There is no evidence that any of these compounds will produce cancer in man. Nevertheless, there is a distinct possibility that these substances would have a carcinogenic effect on the human respiratory system." Do you see that?
A. Yes.
Q. Do you recall yesterday we discussed the issue of a prospective randomized study?
A. Yes.
Q. And I was asking you whether it would be medically ethical to conduct such a study, to subject people to cigarette smoke who weren't smoking, do you

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remember that?
A. I remember your question.
Q. And you said that wasn't necessary because people were smoking. You remember that?
A. Yes.
Q. Okay. Now --
A. You're taking -- you're taking it a little out of context. But I remember that.
Q. That was in essence what you said; wasn't it?
A. Close.
Q. All right. And it would be fair to state that there have been thousands of articles reported in the literature since 1959 which show -- have shown that human beings who were smoking have developed lung cancer; correct?
A. That's correct.
Q. And hundreds of thousands of people since 1959 have developed lung cancer who were smokers; correct?
A. And many that were not smokers.
Q. And studies in the literature have shown that when people quit smoking, the rate of lung cancer dropped precipitously; correct?
A. That is the epidemiologic data.
Q. Now Dr. Rodgman goes on to state, "Medical experience has shown that man responds to various

chemical substances in the same manner as experimental animals." Do you see that?
A. Yes.
Q. You don't dispute that; do you?
A. I dispute the concept that you can equate the laboratory animal with the human.
Q. That's not --
A. There are differences.
Q. That's not what I asked.
You don't dispute the fact that medical experience has shown that man responds to various chemical substances in the same manner as experimental animals.
A. Yes, I do dispute that. "The same manner" implies that there's a universality, and that's not true.
Q. Well, you understand that by "the same manner" here, Dr. Rodgman was talking to the fact that cancer was developed. Do you understand that?
A. No, sir. I -- I'm missing the point again.
Q. Okay. You don't --
You can't conclude that from this sentence; is that right?
A. Dr. Rodgman states, "Medical experience has shown that man responds to various chemical

substances in the same manner as experimental animals." I wouldn't say the same.
Q. Okay. And he was talking about the carcinogenic

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effect of certain chemicals on the respiratory system; wasn't he?
A. I guess so.
Q. All right. And he goes on to say, "It follows therefore that it would be better for the consumer if cigarette smoke were devoid of such compounds;" correct?
A. That's what he's written.
Q. Now, none of the defendants have made their products devoid of such compounds; have they?
A. I don't --
I can't tell you that. I'm not an expert in that area.
Q. Have you ever asked?
A. No.
Q. Did you ever have a curiosity in that regard?
A. Yes. Certainly I'm curious, but --
Q. You are. Well when you had that curiosity, did you say, "Gee, maybe I'll ask one of the members of the companies who sits on the board of directors, who is paying my salary, that question?" Did that ever occur to you?

A. No, it didn't, as a matter of fact.
Q. And when you meet with the Scientific Advisory Board to evaluate prospective grants, how often a year do you do that?
A. Twice a year.
Q. So the Scientific Advisory Board of the CTR only meets twice a year; correct?
A. Well it meets a third time for evaluation of total program and planning for the grants process.
Q. Okay. So the members of the Scientific Advisory Board come together three times a year; is that right?
A. That's correct.
Q. Now if we can go back to Dr. Rodgman's memorandum, he goes on to state, "As described in RDR, 1956, No. 9, we in the R. J. Reynolds Tobacco Company Research Department corroborated the published findings with respect to 3,4-benzpyrene, obtained this compound in crystalline form, and positively identified it as a constituent of smoke on the basis of its chemical and physical properties." Do you see that, sir?
A. I see that.
Q. And that's a polycyclic hydrocarbon?
A. Correct.

Q. Benzopyrene?
A. Yes.
Q. Is it an alkane?
A. I don't know whether you -- it's classified that way or not. I'm not a chemist.
Q. Okay. Benzene or benz --
Benzene is a highly carcinogenic substance; is it not?

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A. Benzpyrene is a carcinogenic substance. Is that what you're asking me?
Q. I am asking you that.
A. Yes. Yes.
Q. It is. Okay.
And it's part of the benzene family; correct?
A. Correct.
Q. And benzene is highly carcinogenic; isn't it?
A. Yes.
Q. Now Dr. Rodgman goes on to state, "Some thirty-odd polycyclic hydrocarbons have since been similarly characterized in these laboratories." Do you see that?
A. I do.
Q. And those polycyclic hydrocarbons are also highly carcinogenic; aren't they, sir?
A. Yes.

Q. And in tests they found that eight of these were carcinogenic to mouse epidermis; is that correct?
A. That's the statement.
Q. And "mouse epidermis," that means the skin of the mouse; correct?
A. Yes, sir.
Q. And Dr. Rodgman goes on to state that "Cholanthrane, a potent carginogen, is one of three not yet reported by other investigators." Do you see that?
A. I see that.
Q. Do you know if RJR made this information public at that time?
A. I do not.
Q. Were you curious when you started with the CTR as to whether or not any of the comanies had information relating to the public health that they had not disclosed to the public?
A. That was not a responsibility of taking on administrative control over The Council for Tobacco Research, and no, I did not investigate that area.
Q. I understand you testified this morning that it wasn't your responsibility. I'm asking if you were curious.
A. Not particularly. These are matters that are

developed by the company, and it is not of chemical interest to the research program of the CTR.
Q. So you just left that up to the company; correct, sir?
A. Yes, sir.
Q. Did you think the company would disclose information it had regarding the public health if it had that information?
A. I didn't think about it at all, Mr. Ciresi.
Q. Did you ask Dr. Spears, for example, "Doctor, do you have information regarding the public health in the files of Lorillard that have not -- has not been disclosed to the public?"

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A. No.
Q. Never asked that question.
A. No.
Q. Did you ever ask that question of any of the other officials of the manufacturing defendants who have sat on the CTR board over the 11 years you've been with that organization, sir?
A. No.
Q. Not once; correct?
A. No.
Q. Can you direct your attention, please, to Exhibit 10686, which would be in volume one, sir.

A. I have that. It's very difficult to read.
Q. I apologize on behalf of myself and the defendants. That's the best copy they gave us, sir.
Do you see that it's a confidential memo to Mr. Millhiser?
A. I see "CONFIDENTIAL" and then Mr. Millhiser's name. I don't know whether he's the author or the recipient.
Q. Do you see right below that it's J. E. Lincoln?
A. Yes.
Q. Do you know Jett Lincoln from Philip Morris?
A. I have met him.
Q. Chief financial officer; correct, sir?
A. He was. He retired about the time that I joined CTR.
Q. Okay. And he had been with the company for a long period of time; had he not?
A. I don't know.
Q. You knew Mr. Millhiser was with Philip Morris; correct?
A. I -- I only know it in connection with this litigation. I did not know Mr. Millhiser.
Q. If you'd turn to the last page, do you see that the name there is J. E. Lincoln?
A. I see that.

Q. And over on the left-hand side it's got his initials, then with a colon, then it's got BK, who would be the person that typed this for him. Do you see that?
A. I see that.
Q. Okay. Fair to assume that this is Mr. Lincoln's memo to Mr. Millhiser?
A. Yes.
MR. CIRESI: Your Honor, we'd offer Exhibit 10686.
MR. WEBER: No objection, Your Honor.
THE COURT: Court will receive Exhibit 10686.
BY MR. CIRESI:
Q. I'm going to help you with this one, sir, because it is difficult to read.
Now you know that Mr. Millhiser was president and vice chairman of Philip Morris?

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A. I don't know that, but I accept that.
Q. And you do know that at one point, though, that Mr. Lincoln was the chief financial officer of the company.
A. I do know that.
Q. You know that he also at one time held the position of vice-president of planning?

A. I don't know that.
Q. Let's take a look at this memo, and I have some questions concerning it as we go through it.
"TWO COMPLEXES.
"Self-analysis, confirmed by a professional, Mike Kolfgott, leads to the following views of our relation to the health problem. All of us, or at least most of us, in the tobacco industry are caught between a guilt complex and a power complex.
"The guilt complex is a simple matter. We tend to suffer from the sternly repressed," and he's underscored that, "fear that our opponents are right and we are wrong on the health question and that we are thus devoting our business lives to the propogation of lung cancer."
Now were you able to read that along with me, sir?
A. I -- I agree with that, yes.
Q. Okay. Now --
A. I -- I agree that that's what's written here.
Q. You don't agree that they were devoting their lives to the propogation of lung cancer; is that what you're saying?
A. I think this is interesting speculation, thought.

Q. Interesting speculation by an individual who was the chief financial officer of Philip Morris corporation; is that right?
A. Correct.
Q. Directed to the president and vice chairman of the corporation; correct?
A. You have told me so.
Q. Now sir, I'd like to talk about just from a medical standpoint, not --
I'd like you to assume something for a minute, that smoking did cause lung cancer, or it was a very real possibility. Can you -- can you assume that?
A. Yes.
Q. From a medical standpoint, if there was a body of scientific knowledge out there, an opinion that it did, do you think those folks who held that opinion should be considered opponents if you're selling a product that may be causing that injury?
A. What is your question?
Q. Should you look at them as opponents, or should you look at them as raising serious health issues that should be investigated?
A. I would say that's a bad choice of language.

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We're all on the same side.
Q. All should be on the same side; correct, sir?

A. I think we are.
Q. Oh. All should be on the same side; correct?
A. I think we are.
Q. Well Mr. Lincoln -- and let me make clear for the record, Jett Lincoln -- he felt that they were opponents; correct?
A. He expressed that.
Q. And he talked about the guilt complex; didn't he?
A. He did.
Q. And then he goes on to talk about a power complex; doesn't he?
A. Yes.
Q. "The power complex is a matter of natural human resentment of attempts by outsiders to play a role in our industry. Product modifications suggested by outsiders meet with an emotional response that would not occur if the same modifications were originally suggested by insiders." Now have I read that right?
A. Not quite.
Q. Where was I wrong?
A. It says "emotional resistance," not "emotional response."
Q. Ah, "emotional resistance." Thank you.
Now we just saw Dr. Rodgman, an insider,

suggesting the removal of carcinogens; didn't we?
A. We --
The document we saw previously --
Q. Yes.
A. -- did say that, yes.
Q. And sir, you know, based on your 11 years as CTR -- at CTR, that there has been no removal of carcinogens from cigarette smoke. You know that; don't you?
A. No, sir, I do not know that. I don't engage in the manufacture, design, or research into the manufacture of cigarettes.
Q. Do you think it should make a difference if these compounds were causing cancer, whether it was suggested by an insider or an outsider?
A. I don't see any distinction one way or the other.
Q. You don't think --
You don't think there should be any distinction; do you, sir?
A. No.
Q. You think that if that is something that should be done to make the product safe, it should be done regardless of who suggested it; correct?
A. You're asking me to interpret what Mr. Jett

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Lincoln was thinking, and I'm not able to do that.
Q. No, I'm -- I'm asking you what you think. You think that regardless of who suggested it, it should be done if it would make the product safer; don't you?
A. I don't think I could make that blanket statement. I think any reasonable suggestion about making a product safer is appropriate.
Q. Well, let me ask you to assume this: Assume you have a car and it has faulty brakes. You don't know it. But I know it, and I tell General Motors that there is a defect in their braking system in the type of model of car that you have. Wouldn't you want General Motors to act on that?
A. Yes.
Q. Even if I was an outsider; correct?
A. Yes.
Q. You would want that product made safe; wouldn't you, sir?
A. Correct.
Q. You want to rely on the manufacturer to take action that would make it safe; don't you?
A. I think so.
Q. And you do rely on manufacturers to do that; don't you, sir?

A. I think I do.
Q. And you --
The public has a right to rely on people to do that, who manufacture products; don't they?
A. Well I'm not an expert on public right either, but I -- I accept your premise.
Q. As a consumer you accept that premise; don't you?
A. I don't know what consumers accept.
Q. You as a consumer accept that premise, that assumption; don't you?
A. Yes.
Q. And you wouldn't want General Motors to say, "There's a controversy, I'm not going to correct it;" would you?
A. This is a little vague for me, but --
I accept the idea that if there is a defect, it should be remedied.
Q. Yes. And you wouldn't want General Motors to try to create a controversy to say that there wasn't a defect; would you?
A. No.
Q. That would be wrong; wouldn't it?
A. I suppose.
Q. It would be in your judgment an act by the

manufacturer that was inappropriate; correct, sir?
A. No. You're telling me what my judgment would be. I don't know. I'd have to know the specific circumstances.

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Q. If they didn't remedy the defect because they wanted to create a controversy, you'd consider it inappropriate; wouldn't you?
A. No, sir. I would have to know the circumstances.
Q. Let's go on to see what else Mr. Lincoln said. "The very natural operation of these two complexes causes a difference between the manufacturer and the consumer viewpoint on the health question." Do you see that?
A. I do.
Q. So what Mr. Lincoln is basically saying is that there was a moral dilemma for him between --
MR. WEBER: Object --
Q. -- a guilt complex and a power complex; --
MR. WEBER: Objection.
Q. -- wasn't he?
MR. WEBER: Objection, Your Honor. We're asking the question of speculation on someone from 1958.
THE COURT: Well I think he's entitled to

interpret what he understands the document to say.
A. I can't -- I -- I can't tell what was in Mr. Lincoln's thought, and I don't -- I don't read here anything about morality.
Q. Well he does say that the very natural operation of these two complexes causes a difference between the manufacturer and the consumer viewpoint on the health question. Doesn't he say that?
A. Yes, sir.
Q. But sir, you would agree as a medical doctor, who's taken the Hippocratic oath, that the manufacturer's viewpoint on that health question should be consonant with the consumer; wouldn't you?
MR. WEBER: Objection, Your Honor, the Hippocratic oath has nothing to do with manufacturing.
THE COURT: Well it has something to do with this witness, though, counsel.
You may answer.
Q. Wouldn't you, sir?
A. I -- I missed when you said "Hippocratic oath."
If you're saying does the manufacturer have a responsibility to investigate and remedy a defect in his product, I -- I would say yes.
Q. And that manufacturer's viewpoint on that health

issue should and must be consonant with the consumer's viewpoint in your judgment; correct?
A. You are -- you are trying to make my judgments for me. It would depend on the circumstances. I think there are varying circumstances here that would have to be identified before I could give you a blanket answer.
Q. Should the manufacturer be able to twist the facts, as we saw in that one memorandum on the health

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issue?
MR. WEBER: Objection, Your Honor, it's argumentative.
THE COURT: It is argumentative. Rephrase it.
Q. Do you recall the memorandum of Hill & Knowlton where it said that the tobacco industry had twisted the facts?
A. I remember --
I don't remember the language, Mr. Ciresi, but I remember the Hill & Knowlton memorandum.
Q. You don't remember it twisted the facts?
A. I don't remember that.
Q. Well let me get you back to that memo, sir. If you could go to Exhibit 18904, and that would be in volume two.

A. I have that.
Q. And if you would go to the Bates number page 497 at the bottom, the lower right-hand corner. Do you see that, sir?
A. I see that.
Q. Okay. Now do you see "Problem 3:
"How to validate this message of assurance. The men talked to in the cigarette companies tend to," and then it's got subparagraphs listed under there.
A. Yes.
Q. Do you see that?
A. Uh-huh.
Q. If you'd go to the next page, under (c), it starts on page 497 and goes over to the next page, and do you see what it says there, "In the past, industry has given little twists to the facts of science, to convert them into sales propoganda, without much risk. The cigarette industry has indeed been doing this for years." Remember that?
A. I see it now. I don't believe we read that previously.
Q. Well, the record will reflect whether we did or didn't. I would ask you to assume that we did.
If we did, you just don't remember it; correct?
A. I just don't remember.

Q. Now assuming that that is correct, that's what the industry did, twisted the facts on the health question, that would be inappropriate; wouldn't it, sir?
A. I think you --
Yes, it's inappropriate. But this is Hill & Knowlton's interpretation.
Q. It's Hill & Knowlton's statement based on their interviews of the tobacco people; correct?
A. It's so stated.
Q. Yes. And what they then said, Hill & Knowlton, "We can therefore readily understand its assumption that the same technique will work now, in devising propoganda. But it is -- it is highly important to

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note that the deep issues of life-and-death that are now involved make highly doubtful the question as to whether the familiar techniques can be relied on. The stakes are too large; the penalties for losing could be too great."

That's what they say; right, sir?

A. That's what's written here, yes.

Q. And if a manufacturer twisted the facts on matters of life and death, that, sir, would be inappropriate; correct?

A. Yes.

Q. And the stakes, the results to those corporations, should be great; shouldn't they?

A. Yes.

Q. Now the compound that Dr. Jett was talking about in his memorandum back in 1958 was benzopyrene; wasn't it? Exhibit 10686, in volume one, sir.

A. This is a memorandum not by Dr. Jett, but by Mr. Jett Lincoln.

Q. I'm sorry. By Mr. Jett Lincoln.

The compound that is being talked about was benzopyrene; wasn't it?

A. Does he mention benzopyrene? I haven't read this, so I can't tell.

Q. If you look down at the bottom, it says "THE COMPOUND." See that?

A. I think I -- I think I read that, Mr. Ciresi. It's very difficult.

Q. It says, "BENZPYRENE MUST GO;" doesn't it?

A. I guess that's what it says.

Q. And what he says is "The analysis above," where he was talking about the power complex and the guilt complex, "leads to the following conclusion:

"BENZPYRENE MUST GO." Correct?

A. That I guess is what it says.

Q. It must be taken out of the product; correct?

A. That -- I guess that's what it says, yes.

Q. Because it was carcinogenic; correct?

A. That is Mr. Lincoln's commentary. Mr. Lincoln was a financial officer.

Q. Yes, he was a financial officer. He was also vice-president of planning; wasn't he?

A. I don't know that.

Q. Do you think he was worried about the finances of the company when he said benzpyrene must go?

A. He was making a scientific judgment, and I don't believe he was qualified to do that.

Q. Was the company qualified?

A. I think they would have had to have some scientific basis for any judgment in this matter.

Q. Let's assume there was a dispute whether it would cause lung cancer in a hundred thousand people or two people. Would that make a difference?

A. I don't know. I -- again, I'd have to examine the circumstances. This is a document that is 50

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years old -- 40 years old.
Q. Well, sir, how many people would have to die from it before you would feel it should be removed?
A. One.
Q. One.
A. If -- if it were the agent responsible.

Q. One human being; correct, sir?
A. If it were the agent responsible.
Q. And if there's carcinogenic compounds in cigarette smoke that killed one human being, they should be removed; shouldn't they?
A. If it were the agent identified as being responsible.
Q. And you don't want 100 percent certainty on that; do you, sir?
A. If it were the agent responsible.
Q. You don't want 100 percent certainty on that; do you, sir?
A. I would prefer it.
Q. But you don't want that before you would order it removed.
A. I might -- I --
Now wait a minute. Let's be exact about this. I'm talking about scientific precision.
Q. Oh, we talked about that this morning. We talked about the Henle Koch postulates; didn't we?
Q. Yes, we did.
Q. Yes. And you wanted to talk about tuberculosis; didn't you?
A. Yes.
MR. WEBER: Objection, Your Honor, this is

getting argumentative. We're getting dramatics and --
THE COURT: No, you may answer the question.
Q. You did; didn't you, sir?
A. We discussed it, yes.
Q. And we talked about how Robert Henle's grandson found that the Epstein-Barr caused infectious mononucleosis, caused it, and you said yes, it did cause it, and it didn't meet one of the Henle Koch postulates; didn't you? We talked about that.
A. Yes.
Q. And if there is one human being who dies as a result of lung cancer based on carcinogens in smoke, they should be removed; shouldn't they, sir?
A. If it can be proven.
Q. And if the companies made an intentional, voluntary decision not to remove them, they should be held accountable; shouldn't they?
MR. WEBER: Objection, Your Honor, it's argumentative.
THE COURT: You may answer that.
A. I don't know the answer to your question.
Q. Sir --

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A. There are too many circumstances here that cloud the issue.
Q. You just can't answer that because the issue is clouded; correct?
A. I am --
I don't know.
Q. Do you know what Mr. Lincoln said with regard to whether they could prove it or not?
A. I don't know what he said, no.
Q. Let's read on. "This compound must be removed," must be removed, "from Marlboro and Parliament or sharply reduced. We must do this not because we think it is harmful but simply because those who are in a better position to know than ourselves suspect it may be harmful. Other ingredients that might be harmful must also go, but benzpyrene should go first because it is the one that seems to be under most suspicion at the moment."
Is that what he wrote, sir?
A. Yes, it is.
Q. And he wrote it to the president and vice chairman of Philip Morris in 1958; correct, sir?
A. Yes.
Q. And how many children have started smoking since 1958 and died from lung cancer over those 40 years?
MR. WEBER: Objection, it's argumentative

again, Your Honor.
THE COURT: Well you may answer if you know.
A. I don't know.
Q. Do you know if one has?
A. I don't know.
Q. Now sir, we've seen that Brown & Williamson in 1952 isolated benzpyrene. You saw the documents; correct?
A. Yes.
Q. And do you know if RJR in 1956 isolated benzpyrene?
A. I don't remember seeing it. I accept that.
Q. Okay. And sir, did the CTR ever state that benzpyrene had not been isolated from cigarette smoke by scientists?
A. I have seen a memorandum from Dr. Hockett that stated that. He was simply mistaken and did not have the information.
Q. Ah. He stated it on behalf of the CTR; didn't he?
A. Stated it on behalf of himself.
Q. It was a press release from the CTR; wasn't it?
A. It was his opinion.
Q. But it was a press release from the CTR; wasn't

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it, sir?
A. I believe so.
Q. Can you direct your attention to Exhibit 14164.
A. I have that.
Q. And that's a 1957, July 15th, for-immediate-release press release of the CTR, then called the TIRC; correct, sir?
A. Correct.
Q. And Dr. Hockett was acting on behalf of the TIRC at that time in responding to a statement from the United States Surgeon General; wasn't he?
A. Yes.
MR. CIRESI: Your Honor, we'd offer Exhibit 14164.
MR. WEBER: No objection, Your Honor.
THE COURT: Court will receive 14164.
BY MR. CIRESI:
Q. And at the top we see "FROM: Hill & Knowlton, FOR: TOBACCO INDUSTRY RESEARCH COMMITTEE." Correct?
A. Yes.
Q. That's the CTR; right?
A. Yes.
Q. "FOR IMMEDIATE RELEASE.
"SCIENTIST COMMENTS ON BENZPYRENE REPORT." Correct?

A. That's what's written.
Q. And it states, "The following statement was made by Dr. Robert C. Hockett, associate scientific director of the Tobacco Industry Research Committee, in conjunction with today's news reports from Washington quoting the U.S. Surgeon General as saying benzpyrene had been found in cigarette smoke." Correct?
A. Correct.
Q. Now we know that five years before that Brown & Williamson had found benzpyrene; correct?
A. We do from a review of the company memoranda.
Q. And we know from a review of the company memoranda that over a year before that RJR Reynolds had isolated benzpyrene; correct?
A. You have shown me those documents.
Q. And Dr. Hockett was the fellow that we saw with Dr. Little in the interview on the tape yesterday where they were sitting around the table smoking and discussing cancer. Remember that?
A. I remember that.
Q. And how long was he with the CTR?
A. I don't recall, Mr. Ciresi. I think probably 20 years.
Q. Twenty years.

A. Maybe longer.
Q. Did he die of lung cancer?
A. No, sir, I don't think so. But I don't know.
Q. Now he states, "The question of the presence of benzpyrene in tobacco smoke has been under

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investigation for a number of years, and it has been widely discounted as a significant factor in connection with lung cancer by scientists familiar with the work.

"There are a number of reasons for this.

"Scientists have not actually succeeded in isolating the substance from tobacco smoke." That's what he says; right?

A. That's what he says.

Q. He intended --

The TIRC, I should say, CTR, intended people to rely on that statement; didn't they?

A. I'm sure Dr. Hockett thought that was -- that was correct at the time he made that statement.

Q. And CTR, when it issues press releases, intends people to rely on it; doesn't it?

A. Intends --

Q. People to rely on what they say.

A. Well I think any public body does.

Q. And they intended doctors to rely on this;

correct?

A. I would assume.

Q. They intended consumers to rely on it; correct?

A. I would assume that.

Q. And it was flat-out false; wasn't it, sir?

A. Well misinformation. Dr. Hockett clearly was not aware of the fact that the companies had isolated the substance.

Q. Because the companies didn't tell him; right?

A. Well I don't think the company had any obligation to tell Dr. Hockett about this.

Q. The company didn't have any obligation to tell Dr. Hockett, who was issuing a press release to the world based on a suggestion of Hill & Knowlton, that benzpyrene wasn't in tobacco smoke; is that what you're saying?

A. I said I didn't -- didn't think the companies had an obligation to make Dr. Hockett aware of their internal research.

Q. Who was paying Dr. Hockett?

A. The Council for Tobacco Research.

Q. Who was paying The Council for Tobacco Research?

A. The funds were coming from the tobacco industry.

Q. The industry; correct, sir?

A. Yes.

Q. These defendants; correct?

A. I don't --

I can't identify the defendants.

Q. The defendants who were supporting the CTR; correct?

A. I guess, yes.

Q. So they didn't have to tell Dr. Hockett what they knew. He could make any statement he wanted in blissful ignorance; is that right?

A. No. I think you're overdrawing the case. Dr.

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Hockett simply didn't know, obviously.
Q. Well of course he didn't know because they didn't tell him; right?
A. And I see nothing evil about that. He -- he -- he simply didn't have the information.
Q. There's nothing evil about the cigarette companies hiding whatever they want in their files and letting the CTR issue press releases; is that correct, sir?
MR. WEBER: Object to the argumentative nature and the dramatics, Your Honor.
THE COURT: It is argumentative. Sustained.
Q. Sir, is it your testimony that those companies had no duty to tell their agents what they knew about

an issue that their agents were going to issue a press release about? Is that your testimony?
A. Well I'm -- I'm certain the companies didn't know that Dr. Hockett was going to issue a press release.
Q. Well do you know if --
A. I'm equally certain that Dr. Hockett was perfectly honest in his statement. He simply didn't know.
Q. Did the companies issue a corrective press release and say, "Oh, no, we know. We've isolated benzopyrene?"
A. I don't know that.
Q. Have any of the defendants' lawyers provided you such a document?
A. I don't know.
Q. You don't know if they provided you that?
A. I don't know. I haven't seen such a document.
Q. Sir, in 1962 you were aware, were you not, that RJR, for example, one of the companies who is a defendant in this case --
You know that, don't you, --
A. Yes.
Q. -- that they're one of the defendants?
A. Yes.

Q. Sir, are you aware that in 1962, 36 years ago, they felt that the amount of evidence that had accumulated to indict cigarette smoke as a health hazard was overwhelming and that the evidence challenging such an indictment was scant? Did you know that?
A. I don't know that, but I --
Perfectly reasonable.
Q. Now we talked a little bit about the special projects. Do you remember that?
A. Yes.
Q. Let me go back. You say it's perfectly reasonable. Did R. J. Reynolds ever state publicly right up to today that the evidence to indict cigarette smoking as a health hazard was known by us

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to be overwhelming in 1962?
A. I don't know.
Q. You've never seen such a statement; have you?
A. No, sir.
Q. We talked a little bit about special projects this morning. Now there were lawyers special projects, as I understand it, and CTR special projects; correct?
A. Well I don't understand it that way.
Q. Can you direct your attention to Exhibit 21127,

volume two.
A. I have that.
Q. This is one of the documents that we gave notice we were going to use with you in your examination. Have you had a chance to look at it, doctor?
A. No, sir.
MR. CIRESI: Your Honor, we'd offer Exhibit 21127.
MR. WEBER: We'd object to this, Your Honor, for the reasons we've explained previously to the court. But in accordance with the court's order, I assume this will come in.
THE COURT: The court will receive 21127.
BY MR. CIRESI:
Q. Now you see that this is a letter -- and I'm going to help you out a little bit because some of it is a little faint, although, doctor, if you look on the monitor it might help because we're able to magnify it a little bit.
This is a letter on the law firm head of Webster & Sheffield. Do you see that?
A. I do.
Q. You know that they were long-time lawyers of the industry; correct?
A. I don't know that.

Q. You see that this letter is addressed to Joseph Greer, vice-president and general counsel of Liggett & Myers?
A. Now that you read it to me I can see that.
Q. Okay. And it's by Francis Decker, Jr., do you see that?
A. Yes.
Q. Okay. And he's enclosing a copy of his notes which were taken at a meeting of the Committee of General Counsel, which was held on September 10th, 1981 at Chadbourne & Parke. Do you see that?
A. I see that, yes.
Q. And Chadbourne & Parke is another law firm that's been a long-time representative of the industry; correct?
A. I believe so.
Q. Didn't some of their lawyers eventually serve on the CTR?
A. I'm sorry?
Q. Did any of their lawyers ever serve on the CTR?

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A. Yes. Ms. Janet Brown, who was counsel to American Tobacco, was with Chadbourne & Parke, and she served on the CTR board.
Q. And have you read the memorandum of Janet Brown's that was introduced in this case relating to

whether or not biological research would be allowed at American Tobacco in the mid-1960s?
A. I think I've seen that.
Q. Mr. Harlow, you remember, wanted to start up some biological research, and after meeting with Ms. Brown he decided not to? Remember that?
A. I don't remember the content.
Q. Do you remember that the memo was directed to Mr. Cy Hetsko, who was the general counsel of American Tobacco?
A. I don't remember.
Q. In this letter from Mr. Decker, then, he attaches this memo. And could you go to that, the notes, which are the third page of the Exhibit 21127. And you see this is notice -- "NOTES OF MEETING OF COMMITTEE OF GENERAL COUNSEL HELD ON SEPTEMBER 10, 1981." See that?
A. Yes.
Q. And this is the Committee of Counsel; correct, sir?
A. Yes.
Q. And present were the following general counsel, Mr. Witt, Mr. Stevens, Cherry, Newman, and a representative from Brown & Williamson; correct?
A. That's what it says.

Q. And those are general counsel of the companies who supported CTR; correct?
A. Yes. I -- I'm not sure that it is comprehensive, but yes.
Q. Okay. And the next is a little difficult to make out, but says, "Also attending were the following litigating lawyers." Do you see that?
A. I see it. I'm not sure I can read it.
Q. "Also attending were the following litigating lawyers," and the very first name is Brown. That's Janet Brown; correct?
A. I think that's right.
Q. See that?
A. Yes. I -- I don't know, it -- I --
I think it's Brown. Now what Brown it would be, I don't know.
Q. Now if you go down, you see it starts there at number one, "Special Projects." Do you see that?
A. Yes.
Q. And there's some comments next to the name Jacob. And he was one of the litigating lawyers who was in attendance; isn't that correct? The second name.
A. I guess. I accept that, yes.
Q. And is he there --

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He says, "Jacob then defined the special projects and their origin in litigating lawyer needs." Do you see that?
A. I can't read it.
Q. "Jacob then defined the special projects and their origin in litigating lawyer needs." Do you see the --
MR. WEBER: Your Honor, I'd object to any other questions on the areas that he can't read unless there's some better copy somewhere.
THE COURT: No. Well I can read it. Can you read it, counsel?
MR. WEBER: I can't read this. I can make that out a little better. Apparently Dr. Glenn is having a hard time with that screen. That's my point. I think he said he couldn't read it.
THE COURT: Well maybe you should read the big screen. I can read it. Go ahead.
Q. Can you see that up there, doctor?
A. Yes, it's better on the large screen.
Q. All right. "Jacob then defined the special projects and their origin in litigating lawyer needs." Correct?
A. Yes.
Q. "Purposes: 1 - develop witness - stimulate the

interest of doctors.
"2 - develop information re gaps in knowledge." Do you see that?
A. I do.
Q. Then Brown goes on to state as follows --
See her name there?
A. Yes.
Q. "Jacob made a fair statement. Not all these people make good witnesses but they are valuable. E.G., Eleanor MacDonald who knows many people, has ideas, and is sympathetic. Lawyers cannot testify; we need people who can."
Then it goes on to Stevens. Now Stevens was the general counsel at Lorillard where Dr. Spears was at; correct?
A. That's my belief, yes.
Q. Yes. Then he states as follows: "It is timely to re-examine the special projects. Want to make it invulnerable to attack. He is concerned with degree to which we make advocacy primary and science becomes secondary. He knows it is difficult to find witnesses. He is concerned over the fact that some names appear on the list time and again, such as Sterling, Furst, Aviado, who will start to lose credibility for themselves and us. He is concerned

about the quality of the science to cultivate

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witnesses."
Now, sir, were Sterling, Furst and Aviado doctors who received money from the CTR under special projects?
A. I believe they were.
Q. And were they the lawyers special projects or the CTR special projects?
A. They were CTR special projects identified by the sponsor companies.
Q. And if you then --
I'm sorry. May I have that again?
A. They were CTR special projects identified by the sponsor companies.
Q. And the people who identified them at the sponsor companies were the lawyers; correct?
A. I don't know that.
Q. Well let's go on to the next page of these notes of the general counsel, and we're going to go down to Stevens, about halfway down. Do you see his name?
A. Yes.
Q. "Two other factors that concern me:
"I need to know" -- I'm sorry, let me start over.
"Two other factors that concern me:"

Number one, "I need to know what the historical reasons were for the difference between the criteria for lawyers' special projects and CTR special projects.
"2. I understand that there will be times when we need to get money into the hands of a researcher like Janus, but I would rather not create a project that does not make any sense, paren, quote, pseudo science, end of quote, close paren."
Now was Janus an individual who received money from the CTR?
A. I'd have to refer to the list of grantees and -- and contracts and special projects. I simply don't remember.
Q. Don't remember.
A. Well this was, as you pointed out, --
Q. 1981, sir.
A. -- twenty seven years ago -- 17 years ago.
Q. Yes. 1981, correct?
A. Correct.
Q. And Aviado and Furst and Sterling, they continued to receive money from CTR beyond 1981; didn't they?
A. I can't tell you that. I'd have to refer to the list, but I -- they were -- they were recipients of

funds at one time or another.
Q. They were recipients when you were at CTR.
A. I can't tell you that either.
Q. Just don't remember. And I -- I understand there's a lot of them, sir. And if you don't remember, that's fine.

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A. I would have to refer to the list.
Q. Okay, fair enough.
Now was CTR, through its special projects, creating pseudo science?
A. No, sir.
Q. You don't think so.
A. No, sir.
Q. You don't.
A. I do not.
Q. Okay. Do you know that others think they were?
A. I don't know that.
Q. It's been reported they were; hasn't it?
A. I have heard this allegation from plaintiffs' attorneys.
Q. You've heard it from doctors; haven't you?
A. No, sir.
Q. It's been reported in the medical press; hasn't it?
A. I have not heard it from doctors, no.

Q. Has it been reported in the medical press that the CTR was nothing but a front for the tobacco industry?
A. That has been recorded, yes.
Q. It's been reported in the Journal of the American Medical Association; hasn't it?
A. Yes. Erroneously.
Q. Erroneously. The journal is a peer-reviewed, class-one journal; isn't it?
A. Yes.
Q. It is the premier journal of the American Medical Association; isn't it?
A. Yes.
Q. Now sir, Jacob then goes on and states as follows: "When we started CTR Special Projects" --
Now Jacob, he's a lawyer; right? Isn't that right?
A. Yes.
Q. He's a lawyer that's from outside the companies. He's a litigating lawyer; is that right?
A. He was identified as such in this memorandum.
Q. He's a long-time litigating lawyer for the tobacco industry; isn't he?
A. He is identified as such in the -- in the memorandum. I don't know about long-time and --

Q. Well you've heard his name over the years; haven't you, sir?
A. I've heard his name, yes.
Q. Have you met him?
A. No, never met him.
Q. Never met him.
"When we started the CTR Special Projects, the idea was that the scientific of C -- scientific director of CTR" --
Now who was the scientific director? You were the scientific director at one time; weren't you?

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A. Yes.
Q. Okay. Let me start over. "When we started the CTR Special Projects, the idea was that the scientific director of CTR would review a project. If he liked it, it was a CTR special project. If he did not like it, then it became a lawyers' special project." Is that right?
A. That's what's written here, yes.
Q. And you found that to be true; didn't you?
A. I didn't find anything to be true. Special projects had virtually terminated by the time I joined CTR.
As I understand the process, the scientific director was called on to review a proposed special

project by the company sponsors.
Q. The company sponsors were again the lawyers; correct?
A. I don't know that. I'm sure the lawyers participated in the decision.
Q. Can you name one scientific person who participated in that decision? One?
A. The scientific director of CTR participated by reviewing the proposed project. If he thought it had scientific merit, he would tell the sponsors this. And I think if he did not find scientific merit, it probably reverted back to the -- to the companies, at which point the lawyers might decide to proceed unilaterally.
Q. Can you name --
A. In which case it would not be a CTR project.
Q. Can you name one scientific person from the companies who participated in this program other than the lawyers?
A. I can't name the lawyers, I can't name the scientific people, and I can't name company executives who had participated in it.
Q. Now what happened was they were afraid of discovery on these lawyers' projects and they deep-sixed them by trying to claim privilege over

them; isn't that right?
A. I don't know that.
Q. Well let's see what happens. Stevens then says, "He took offense re scientific embarrassment to us, but not to CTR." Do you see that?
A. Yes.
Q. And then on to the next page, Jacob, "With Spielberger, we were afraid of discovery for FTC and with Aviado, we wanted to protect it under the lawyers. We did not want it out in the open." Isn't that right, sir?
A. That's what it says.
Q. And whenever research was done which showed a cause-and-effect relationship between cigarette smoking and disease, it was buried with the lawyers; wasn't it?

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A. I can't extrapolate that statement to your statement.
Q. You just don't know; correct, sir?
A. I don't know.
MR. CIRESI: Thank you. I have no further questions.
THE COURT: Why don't we take a short recess.
(Recess taken.)

THE CLERK: All rise. Court is again in session.
(Jury enters the courtroom.)
THE CLERK: Please be seated.
THE COURT: Counsel.
MR. WEBER: Thank you, Your Honor. Before I get started, with the court's permission, I just want to warn everyone again about my cold still hanging on, so I'll apologize ahead of time if I sneeze or cough in the middle of this.
Good afternoon, ladies and gentlemen.
(Collective "Good afternoon.")

DIRECT EXAMINATION

BY MR. WEBER:
Q. Good afternoon, Dr. Glenn.
Dr. Glenn, you and I met before. My name is Bob Weber. I represent R. J. Reynolds in this case. I'm going to ask you a series of questions this afternoon, following up some of the issues that Mr. Ciresi has discussed.
How long have you been at CTR, sir?
A. Nearly 11 years.
Q. Now were you at CTR in 1954 when Hill & Knowlton was involved in its formation?
A. No, sir.

Q. Where were you in 1954?
A. I was a flight surgeon in the United States Air Force.
Q. And where were you stationed?
A. In 1954, at Webb Air Force base in Big Springs, Texas.
Q. Were you at CTR in the late sixties and early seventies when, according to some of the memoranda Mr. Ciresi showed you, different people in the companies thought CTR should be doing things differently?
A. No, sir.
Q. In the 10 years you've been at CTR, Dr. Glenn, have lawyers played a role in selecting what research the SAB funds?
A. No.
Q. In the 10 years you've been at CTR, Dr. Glenn, have lawyers played a role in the deliberations of the SAB?
A. No.
Q. In the 10 years you've been at CTR, have tobacco

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companies or their executives played a role in selecting what the Scientific Advisory Board decides to research?
A. No, sir.

Q. Or in the Scientific Advisory Board's meetings or deliberations; correct?
A. Correct.
Q. During your years at CTR has the SAB chosen to fund or not fund research for public relations reasons?
MR. CIRESI: Well, Your Honor, I'm going to object. There's been a series of leading questions.
THE COURT: Pretty leading, counsel. I think you better start rephrasing it.
BY MR. WEBER:
Q. In your time at CTR, Dr. Glenn, has the SAB in its deliberations taken public relations into account when it funds research?
A. No, sir.
Q. Has it taken legal issues into account?
A. No, sir.
MR. CIRESI: Same -- excuse me, doctor. Same objection, Your Honor, it's leading.
THE COURT: It is leading. I'll allow it.
BY MR. WEBER:
Q. Has the SAB discussed in its meetings whether company chemists or other scientists should determine the path of the SAB?
A. No.

Q. Now when you joined the CTR in 1987, did you believe it necessary or not -- and explain if you did or didn't -- to review the archives of the Hill & Knowlton Company in Wisconsin to help you fulfill your role at CTR?
A. No.
Q. Dr. Glenn, I'd like you to reach for one of the exhibit binders that was the plaintiffs' and look for Exhibit 12581.
A. I have it.
Q. And do you remember that's a document that Mr. Ciresi asked you some questions about, a document by a Claude E. Teague?
A. Yes.
Q. And could you read the title of that?
A. It says "SURVEY OF CANCER RESEARCH with emphasis upon POSSIBLE CARCINOGENS FROM TOBACCO."
Q. What is a survey article?
A. "Survey" would -- means to me literature review primarily.
Q. Was this report by Dr. Teague based on anything other than published literature?
MR. CIRESI: Objection, Your Honor.
A. I don't --
MR. CIRESI: Excuse me. Pardon me. No

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foundation.
THE COURT: You have to lay foundation for that.
BY MR. WEBER:
Q. Is this the document Mr. Ciresi asked you some questions about yesterday?
A. Yes, sir.
Q. Turn to the back of the article -- or of that exhibit, if you would, sir.
A. I have it.
Q. And is there a series of three pages or four pages of bibliographic notes?
A. Yes. Four pages.
Q. Do those appear to be citations to published literature or to internal work product?
A. No, they clearly are citations from the literature. It gives the name of the journal, the volume, the year, and the page.
Q. Now if you turn to page -- and I know the numbers are hard on this document. Turn to page 12, if you would.
A. I have it.
Q. And do you see at the last sentence of the middle paragraph, that last sentence, I think it begins "In 1941...?"

A. I see it.
Q. Could you read that -- those two sentences to the jury?
A. "In 1941 Roffo," reference number 75, "reported isolation of a benzpyrene from a pyrolytic distillate of tobacco. The benzpyrene was highly carcinogenic in animal tests."
Q. And is that citation to a piece of public literature?
A. It is citation to the public literature.
Q. Could you turn now, Dr. Glenn, to Plaintiffs' Exhibit 13555. That may be in that same binder.
A. Yes, I have it. I have it.
Q. And can you identify that as a document that was represented as a Brown & Williamson document that you were asked questions about earlier?
A. Yes.
Q. Could you turn to page nine of that.
A. Yes, sir.
Q. And to the heading labeled "CANCER."
A. Yes.
Q. I believe that's focused. Could you start reading right after "CANCER?"
A. "This subject is being investigated from a literature standpoint and will be reviewed later from

a chemical analysis viewpoint.
"A compilation of Dr. Roffo's articles, located

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in Chemical Abstracts, has been made and the conclusion reached that correspondence with him should be initiated by an independent laboratory not connected with Brown & Williamson. Dr. Roffo, incidentally, has apparently devoted his life to the study of cancer and has written some 15 papers about his experiments on cancer produced in experimental animals by tobacco smoke and tars."
Q. Okay. If you'd stop right there, please. Does that appear to be the same Dr. Roffo referenced in the Claude Teague article who reported in 1941 publicly on the presence of benzpyrene?
A. I think you can make that conclusion.
Q. Now, sir, in the next paragraph it notes that the B&W lab made a partial isolation and identification. Do you see that?
A. I do.
Q. Does that sound like a completed and confirmed experiment?
A. No, sir.
Q. Are experiments that are not completed and confirmed normally published in the scientific literature?

A. No, sir.
Q. Turn, if you would, sir, to Plaintiffs' Exhibit 12418.
A. I have it.
Q. And can you identify that as a document that Mr. Ciresi asked you some questions about just yet today?
A. Yes.
Q. This was a document authored by Dr. Alan Rodgman at R. J. Reynolds?
A. Yes.
Q. I apologize for the fact that I've marked on this, but could you read that first sentence there under "HISTORICAL" where it discusses the public reporting of the presence of benzpyrene.
A. "In 1954 the first report of the presence of a carcinogenic factor, parenthesis, cancer-producing, end parenthesis, polycyclic hydrocarbon 3,4-benzpyrene in cigarette smoke was published."
Q. Now that wouldn't be referring to the Roffo article in 1941; would it?
A. I don't think so. I -- this is --
It says clearly "In 1954...."
Q. And then down at the beginning of the last paragraph, could you read that first sentence about R. J. Reynolds laboratory corroborating findings

already published.
A. "As described in RDR, 1956, Volume 9, we in the R. J. Reynolds Tobacco Company Research Department corroborated the public -- published findings with respect to 3,4-benzpyrene, obtained this compound in crystalline form, and positively identified it as a constituent of cigarette smoke on

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the basis of its chemical and physical properties."
Q. Thank you.
Now that was 1959, that reference -- or that memorandum you just discussed; correct?
A. Yes.
Q. Are you familiar with Dr. Wynder's position with respect to the presence of benzpyrene in a period in the, let's say, '55, '56, '57?
A. I'm familiar with it, yes.
Q. Are you familiar with his position on whether or not there was enough benzpyrene in the presence of smoke to account for any carcinogenicity?
A. It was thought not to be present in sufficient quantities --
MR. CIRESI: Excuse me.
A. -- to be carcinogenic.
MR. CIRESI: Excuse me, Your Honor. There's no foundation. We need to know what he's

referring to with regard to Dr. Wynder so we can have that.
THE COURT: Can you lay some foundation for that, counsel?
MR. WEBER: Let me try it this way, Your Honor.
BY MR. WEBER:
Q. Could you turn to Plaintiffs' Exhibit 14164, Dr. Glenn.
A. I have that.
Q. And this was the Dr. Hockett statement about benzopyrene that Mr. Ciresi had asked you about?
A. Yes.
Q. Could you look at the paragraph down toward the bottom. Refers at the beginning to Dr. Ernst Wynder.
A. I see that.
Q. Could you read that.
A. "Dr. E. L. Wynder of Sloan-Kettering Institute, a leading proponent of the cigarette theory of lung cancer, reported only this year that, quote, The benzpyrene content of tobacco tar is not more than 2 parts per million which, according to our experiments, is not sufficient to produce the type of activity noted in our animals painted with tobacco tar, unquote."

Q. Now was Dr. Wynder one of the world's leading researchers with respect to benzpyrene and mouse skin-painting at that time?
A. Yes.
Q. Do you know, by the way, Dr. Glenn, whether or not the amount of benzpyrene in commercial cigarettes has substantially decreased since those days?
A. I'm not aware of it. I --
The manufacture and composition of cigarettes is not within my expertise.
Q. Dr. Glenn, could you take a look at Exhibit GK3.
MR. WEBER: Do we have a copy of that up

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there for Dr. Glenn, or should I take him one?
May I approach, Your Honor?
It's the 1964 Surgeon General's report. I don't think it's up here, doctor.
(Document handed to the witness.)
MR. WEBER: That's the page I'm going to ask you to turn to, but look at the front to identify it.
BY MR. WEBER:
Q. Do you recognize that as a copy of the 1964 Surgeon General's report, Dr. Glenn?
A. I do.
Q. Could you turn to page 144 of that report, sir.

A. I have it.
Q. And you see at the bottom of that page in -- under a heading "Mechanism?"
A. Yes.
Q. Could you read that second sentence.
A. "Benzo(a)pyrene is present in much larger concentrations than is any other carcinogenic polycyclic hydrocarbon."
Q. And then the next sentence?
A. "The inability to account for the carcinogenicity of the tobacco products, except to a very minor degree, by the amount of benzo(a)pyrene present, was unanticipated."
Q. And do you --
Is that consistent with the statement of Dr. Wynder's that you just read?
A. It is.
Q. Dr. Glenn, let me -- you can put that one away. I think I'm done with that for now.
Let me turn to another series of questions right now about who you are and your life's work and what you've done.
Could you start out, tell the ladies and gentlemen of the jury where and when you were born, sir?

A. I was born in Lexington, Kentucky, on May 10th, 1928, which makes me 69 years old, and I feel every year of it. I was educated in grammar school and high school in Lexington. I received a scholarship to the University of Rochester and completed the undergraduate course in three years with a bachelor's degree in general science. I then attended Duke University Medical School and obtained the M.D. degree, completing the course in 1952. I then went to Peter Bent Brigham Hospital of the Harvard system for my internship and assistant residency in general surgery. There were -- it was interrupted for two years by a tour with the United States Air Force, and after that military service I went back to Duke and completed my residency in urologic surgery.
Q. Dr. Glenn, are you married?
A. Yes, sir.

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Q. How many years now?
A. Nearly 50.
Q. And have you and your wife been blessed with children and grandchildren?
A. Four children and seven grandchildren.
Q. Any doctors in the group yet?
A. No, not yet. I'm working on the grandchildren.
Q. Dr. Glenn, have you --

You've been practicing as a physician now, you -- for about 46 years, since you got out of medical school?
A. Yes, sir.
Q. And you've developed an area of specialty since that -- in the course of that practice?
A. I am a urologic surgeon.
Q. Do you have any areas of subspecialty as well?
A. Well I've been particularly interested in urologic malignancies and in pediatric urology, primarily the congenital malformations in children.
Q. And in -- with respect to urological or -- well strike that.
With respect to your specialty of urology, have you also undertaken the studies of cancer?
A. Yes, sir.
Q. And you've been a grant recipient for studies of cancer?
A. Yes, sir.
Q. Did you receive any honors in medical school, Dr. Glenn?
A. I was elected to Alpha Omega Alpha, which is the honorary medical society. It's the equivalent of Phi Beta Kappa in college.
Q. And have you stayed active in Alpha Omega Alpha

over the years?
A. Yes, I have. I served as the counselor for the Duke chapter of the honor society, and then I was elected to the national board of directors and subsequently elected president of the honor society.
Q. And that was president for the entire United States?
A. Yes.
Q. Now after you finished your service with the Air Force, where did you go next?
A. I went back to Duke and completed my residency in urology, which I finished in 1959, and I then took appointment at Yale University in the medical school as an assistant professor, stayed there two years, and was offered an associate professorship at Lake Forest University Medical School, accepted that job, and stayed there about a year and a half, when I was offered the opportunity to return to Duke as a professor and chairman of the urology -- urology department.
Q. And you stayed at Duke for 17 years?
A. About 18 years.

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Q. Were you chairman that entire period of time?
A. Yes, sir.
Q. What was it that caused you to think of leaving

Duke, Dr. Glenn?
A. Well I'd been there a long time. I thought there were probably other challenges. And Emory University approached me and asked if I would be interested in being Dean of the Medical School, and I said yes, if I could continue to do my practice as well. I felt like I was too young to give up surgery. So they agreed to that, and I went to Atlanta.

Emory University is the school that has received a tremendous amount of support from the Coca-Cola Company and the people who were the major stockholders in Coca-Cola, and it has a -- had a very bright future, which they are now experiencing, and it was a very enjoyable tour.
Q. And you were Dean of the Medical School?
A. Yes, sir.
Q. And professor of urology?
A. Yes, sir.
Q. So you -- you were both practicing and teaching?
A. Yes.
Q. And researching as well?
A. No, I didn't do any active research during that interval because of the administrative burdens of the dean's office.

Q. Now you went from Emory up to the Mount Sinai Hospital system in New York; correct?
A. Yes. Yes.
Q. Could you describe that system and the duties and responsibilities you had there, sir.
A. I was president of the medical center and also president of the hospital and the medical school. There are three separate entities. The hospital is a 1200-bed hospital. My principal contribution there was construction of a new hospital, and it was a lot of fun.

The medical school has an annual budget of about -- then about 150 million dollars a year, and the hospital an annual budget of about 350 million dollars a year, so the sheer magnitude of it would tell you that I most certainly had a lot of help.
Q. Did you practice medicine while you were at Mount Sinai?
A. I did.
Q. And did you continue to teach while you were at Mount Sinai?
A. Yes.
Q. Now Mr. Ciresi asked you some questions yesterday about a dispute with the board of directors of Mount Sinai about a transplant that was performed.

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Do you remember that?
A. Yes.
Q. Do you want to explain that situation?
A. Well, at that time there was a law in the state of New York, which was not known to our heart surgeons, unfortunately, that said that they could not accomplish a heart transplant without approval of the Commissioner of Health.
They admitted a patient, who was indigent. I was called by the director of the hospital saying what should we do about this patient, one of our sister hospitals wants to transfer this man because they don't have the capacity to take care of him. He was 34 years old and in profound heart failure from a condition called --
MR. CIRESI: Your Honor --
A. -- cardiomyopathy.
MR. CIRESI: Excuse me. I'm going to object to the history of the patient. There's no foundation for this.
MR. WEBER: Your Honor, he's familiar with the situation, and it was raised by Mr. Ciresi about this circumstance. He should be able to explain it.
MR. CIRESI: Well, Your Honor, the medical condition, if we're going to get into that, we will

get into his medical condition, whether it was acute or not. But there's no records here of this gentleman.
THE COURT: Okay. Are we going to get into the specific condition of the patient here?
MR. WEBER: I think all I want --
THE COURT: Don't we have anything else to do today?
MR. WEBER: All I want to do is have Dr. Glenn to give a complete description. He was involved.
THE COURT: Why don't we try and keep it relatively brief, okay?
MR. WEBER: Okay.
A. At any rate, the patient was failing, and our surgeon determined to transplant a heart. Immediately -- I was on vacation -- I was called and advised of this. I returned to New York. The surgeons had not realized that they had -- had violated any regulations. Patient did well.
The commissioner was angered by this and threatened our board of trustees with personal liability. And I said this is not a -- not a trustee matter, this is a medical matter, let's take care of the patient first. The trustees asked me to --

MR. CIRESI: Well, Your Honor, we're getting into hearsay here, and I'm going to object to the hearsay.

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THE WITNESS: This is not hearsay. I was there.
MR. CIRESI: Excuse me, sir.
MR. WEBER: Wait, wait just a minute, Dr. Glenn.
MR. CIRESI: Excuse me, sir.
THE COURT: Yeah. Dr. Glenn, I'd prefer to make the ruling on hearsay, if you'll permit me.
THE WITNESS: Yes, sir.
THE COURT: Thank you.
Objection sustained.
BY MR. WEBER:
Q. Were you asked --
Did the dispute at Mount -- at Mount Sinai that eventually led to your dissociation with Mount Sinai relate to your refusal to discipline the surgeons?
A. Yes.
Q. Now you've been involved in a number of professional organizations over the years as well; haven't you, Dr. Glenn?
A. Yes, sir.
Q. I'd like to go through a few of those with you

now, and a few of your other activities outside of academic medicine. Let me start with your -- first of all, with your role as a consultant for the Agency for International Development in the Viet Nam medical school project under the AMA. Could you describe that?
A. The AMA and the U.S. State Department with its Agency for International Development sponsored a medical school in Saigon to try to train Vietnamese physicians to take care of their own problems, and I was asked to go there as a urologic consultant. I made four trips to Viet Nam during that interval. I also consulted with the Army medical facilities during that same time.
Q. Were you a consultant to the Surgeon General of the Army and the Air Force?
A. I was consultant specifically to the Surgeon General of the Air Force, primarily with oversight of the Air Force residency training program in urology at the Wilford Hall Hospital in San Antonio.
Q. Are you a member of the American Association of Genitourinary Surgeons?
A. Yes, sir.
Q. And have your peers in that group entrusted you with any positions of responsibility over the years?

A. I was elected president of the American association.
Q. Are you a fellow of the American College of Surgeons?
A. I am.
Q. Were you involved and have you been involved in the American Joint Committee on Cancer?
A. Yes, sir.

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Q. Could you describe that for the ladies and gentlemen of the jury.
A. The American Joint Committee on Cancer is a part of the International Commission Against Cancer, and it is a body that attempts to classify and codify malignant disease so that we are all talking about the same apples and oranges. It is not a research activity as much as it is a repository for nomenclature dealing with cancer. And we've -- we've made a lot of progress in the last 20, 30 years so that we all know what we're talking about when we start talking about malignant disease.
Q. Are you a member of the American Academy of Pediatrics, doctor?
A. I am.
Q. Are you a member of the Clinical Society of Genitourinary Surgeons?

A. Yes, sir.
Q. And has that group ever entrusted you with any positions of responsibility?
A. I am --
I was president of that organization.
Q. Were you a member -- strike that.
Are you a member of the Society for Pediatric Urology, doctor?
A. Yes, and I was president of that society.
Q. Are you a member of the Society of Pelvic Surgeons?
A. Yes, sir.
Q. And have you had positions of responsibility in that group?
A. Yes, sir. I was president of that group.
Q. Are you a member of the Society of University Urologists, doctor?
A. Yes, sir.
Q. Have you had a position of responsibility given to you by your peers in that group?
A. I was the first secretary, and then I was president.
Q. Now are you involved in international professional organizations as well, Dr. Glenn?
A. Yes. I think the principal one would be the

International Society of Urology, and I have served for three years as president of that organization.
Q. Are you members --
Are you a member of the German and the Japanese urological associations as well?
A. Yes, sir.
Q. Are you a member of the AustroAsian Urological Society?
A. Yes, sir.
Q. And the Canadian Urological Society?
A. That sounds like a lot of --
Those are honorary memberships, and I don't have any responsibilities.

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Q. Have you been given an honor by the Medical Association in the United Kingdom in Great Britain?
A. Yes. I was the first urologist elected to honorary fellowship in the Royal College of Surgeons, and it's a very distinct honor.
Q. How many physicians in the United States have been given membership in the Royal College of Surgeons?
A. I think over the years there have been 35, maybe 40.
Q. Now, sir, have you also served as a -- on the editorial board of various medical journals?

A. Yes, sir.
Q. Urology Digest?
A. Yes.
Q. Urological Survey?
A. Yes.
Q. Several others?
A. Several others.
Q. Have you, during the course of your 46 years as a physician, Dr. Glenn, also published the results of your research?
A. Yes, and -- and clinical activities and operative procedures.
Q. How many --
How many articles or publications or abstracts have you published in the peer-review literature?
A. Something over 250, with five textbooks.
Q. And book chapters as well in other books?
A. Yes.
Q. Have you received grants for your research from the National Institute of Health, doctor?
A. Yes.
Q. Can you describe some of the work you've done in that area.
A. Well I've --
While at Duke, we enjoyed the first training

grant for academic urologists. This offered us an opportunity to fund fellowships for young men who had indicated an interest in a career in academic medicine. We could take them into the laboratory for a year or two of basic research experience and then continue with their clinical training.
This was a very fruitful program. Overall over the years I had 15 such fellows, and of those, 12 are still in academic medicine. The chairman of the department of urology at the University of Chicago, the chairman of the University of California in Davis, the chairman of pediatric urology at Mayo Clinic, the chairman of urology at Baylor, and the chairman of urology at the National Cancer Institute was one of our trainees. So that NIH money, I think, came back to them in spades.
Q. Doctor, as professor, department chair, dean, president of these various hospitals and departments,

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have you also been involved in cancer research over the years?
A. Yes. We -- our laboratory program was devoted to various aspects of cancer, most prominently the effort -- the early efforts to culture cancer cells in -- in tissue culture, and we made some minor breakthroughs in this area, were able to replicate

cells.
Once a cancer cell is established, particularly urologic cancers -- bladder is the -- is a real difficult problem still. Kidney cancer, we're doing pretty well with that, prostate cancer pretty well. Bladder cancer is still bad, and it is associated with -- with smoking, and we tell the patients who have bladder cancer that they should certainly stop smoking.
Bladder cancer cells, though, were very difficult to -- to grow in culture until one of our fellows devised a new technique, and we're now -- they are now able to replicate generation after generation. We've got bladder cancer cells that date back to 1973 or '4. So that was a definite step forward.
The other -- other activities of cancer, I -- following my retirement in New York I moved back to my home in Kentucky, and the university gave me a professorship and said I could do whatever I wanted to do -- that didn't last very long -- and one of the things they'd asked me to do since returning was serve as interim director of the Markey Cancer Center there at the University of Kentucky, and I did that for three and a half years. That was coincident with

the appointment with CTR. But it gave me a real on-line insight into what was happening in cancer research in this country. We were able to foster some good young people, get them started in their research work. And I think it gave me a broader overview of -- of cancer research in general than I would have had otherwise.
Q. Now in 1987, when you began to become involved with the Council for Tobacco Research, that was also when you moved back to Kentucky?
A. Yes.
Q. And you've been essentially holding two jobs since then?
A. Yes, sir.
Q. About how much time a week do you spend on CTR-related activities, other than a week like this, Dr. Glenn?
A. About half my time, two to three days a week.
Q. And the remainder of your time is spent at the University of Kentucky?
A. Yes.
Q. Now in addition to being the director of the University of Kentucky's Markey Cancer Center, you've

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had other responsibilities at the University of Kentucky Medical School in your time there; have you

not?
A. Yes.
Q. Could you outline some of those for us, doctor.
A. They were in a search for a chief of staff of the University Hospital and asked me to serve as interim director there. I did that for about a year and a half. I served as Associate Dean for Clinical Affairs, meaning the clinical activities of medicine. And for one year I was the acting chairman of the Department of Surgery while they searched for a new chairman.
Q. And you're still practicing and still teaching at the University of Kentucky Medical School?
A. Yes.
Q. Now -- by the way, in January 1954 --
You were asked some questions about the Frank Statement that was published. You remember that?
A. Yes.
Q. In January --
Did you see the Frank Statement in January '54?
A. No, sir.
Q. Had you ever heard -- when --
Let me ask this: When was the first time you ever heard about the Frank Statement?
A. After I joined CTR.

Q. And how did you first hear about it?
A. I've forgotten, Mr. Weber. I suppose from a member of the staff, but I'm really vague about it. But I was ultimately shown a copy of the Frank Statement.
Q. Now from January 1954, when the Frank Statement was published, until you joined CTR in 1987, had you ever heard anybody anywhere at any time say anything about the Frank Statement?
A. No, sir.
MR. CIRESI: Objection -- excuse me, sir. Objection, calls for hearsay, Your Honor.
MR. WEBER: Calls for -- I'm sorry?
THE COURT: He said it calls for hearsay. Objection sustained.
BY MR. WEBER:
Q. Let's turn now to your time at CTR. All right, Dr. Glenn? To your -- and let's -- let's touch on a couple things that CTR doesn't do.
Has CTR ever sold cigarettes, to your knowledge?
A. No, sir.
Q. Or manufactured cigarettes?
A. No, sir.
Q. Or been in the business of developing commercial products for cigarettes?

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A. No, sir.
Q. Does CTR own or operate its own research laboratories?
A. No, sir.
Q. Has it ever done so, to your knowledge?
A. No.
Q. When you came to CTR, Dr. Glenn, did you conduct any investigation of documents that might be possessed by sponsor companies from 30, 40 years earlier?
A. No.
Q. Did you think that such an investigation would in any way be necessary to the research activities you'd been asked to undertake?
A. No.
Q. Could you turn to tab one, Dr. Glenn, of your notebook.
MR. WEBER: Not yet, Liza.
Q. Do you have it, Dr. Glenn?
A. I do.
MR. WEBER: That is Exhibit 1208.
MR. CIRESI: 1208?
MR. WEBER: Yes, sir.
MR. CIRESI: Thank you.
MR. WEBER: I'll wait just a moment to ask

you a question here, Dr. Glenn.
BY MR. WEBER:
Q. Now will that demonstrative chart assist you in describing how CTR operates?
A. Yes. I think that's a fairly accurate reflection of the -- of the structure and function.
MR. WEBER: Your Honor, I'd move the admission of Exhibit 1208 for demonstrative purposes.
MR. CIRESI: No objection, Your Honor.
THE COURT: Court will receive 1208 for demonstrative purposes.
BY MR. WEBER:
Q. Now let's start on the left of that chart, Dr. Glenn, where it shows from the tobacco companies money coming in to CTR. I think you've already described how they fund CTR when you spoke with Mr. Ciresi; correct?
A. Yes.
Q. Now the first group designated there is the CTR board of directors. Do you see that?
A. Yes, sir.
Q. Now is --
And then the next group over is the Scientific Advisory Board; correct?
A. Yes.

Q. The board of directors, is that different from the Scientific Advisory Board?
A. Oh, it's totally separate.
Q. Who --

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A. Board of directors is made up of two representatives from each of the sponsor tobacco companies, and I serve as the chairman of that board. It is an administrative board. It approves the budget for operations and for research grants and it approves business matters that are relative to CTR, but it is not involved in the scientific activities.

The SAB, the Scientific Advisory Board --

Q. Hang on just a second. I want to ask you another question, if I might, on the -- on the board of directors.

The board of directors is made up of people from the sponsor companies?

A. Yes, sir.

Q. Apart from yourself, are -- are the board of directors members normally scientists or business people?

A. They're business people.

Q. Do they --

Does the board of directors determine the substance and direction of the research that's

conducted by CTR?

A. No, sir.

MR. CIRESI: Excuse me, doctor, please. When I rise, I'm going to make an objection.

Objection, Your Honor, it's leading and suggestive.

THE COURT: You may answer. It's been answered.

BY MR. WEBER:

Q. Now let -- let's go to the far right side of the chart for a minute, if I could, doctor, to the scientific director and scientific staff. Do you see that?

A. I do.

Q. Now you served as the scientific director for a period of time; did you not?

A. I did, from 1988 to 1991.

Q. Then just so the ladies and gentlemen of the jury get the chronology right, you first became affiliated with CTR in 1987?

A. In the spring of 1987 as a member of the -- of the Scientific Advisory Board.

Q. And had you had any contact or relation or business dealings with the CTR before that?

A. No.

Q. Then from 1988 to 1991 you served as scientific director.

A. Yes, sir.

Q. And then what happened from then on, doctor?

A. In 1991 I was asked to serve as chairman of the board and chief executive officer.

Q. And when you say "chairman of the board," that's chairman of the board of directors?

A. Correct.

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Q. And at that time did you give up your role as member of the Scientific Advisory Board?
A. I did.
Q. And at some point did you become president of CTR?
A. I did two years later, 1993. When our president retired, I took that responsibility as well.
Q. Now are you a member at this time formally of the Scientific Advisory Board?
A. No, sir.
Q. Do you attend their meetings?
A. I do.
Q. Do you have a formal vote?
A. No, sir.
Q. How many employees does CTR have?
A. Currently there are 12.

Q. And are --
Could you divide those between professional employees and staff employees?
A. Yes. Well of course I'm a physician. Our scientific director, Dr. Harmon McAllister, is a Ph.D. in biochemistry. He has two associate scientific directors, one has a degree in neurophysiology and the other has a degree in microbiology, and they assist him in the grant process. The other staff is clerical. We have a woman who serves as secretary and treasurer of the organization. There are three secretaries, one librarian and one office boy. I believe that I've named everybody.
Q. Could you turn to tab --
Well before I ask you that, are you familiar with the persons who preceded you, came before you as scientific director of the CTR?
A. Yes. Dr. Sheldon --
Q. I just want to know if you're familiar with them now.
A. Yes, I am.
Q. And are you familiar with their reputations in the scientific community?
A. Yes.

Q. And with their backgrounds?
A. Yes.
Q. Could you turn to tab two, which is Exhibit 1917.
A. I have that.
Q. And is that a demonstrative exhibit displaying some of the background of former scientific directors?
A. Yes, it does.
MR. WEBER: Your Honor, I'd move the admission of Exhibit 1917.
MR. CIRESI: For demonstrative purposes?
MR. WEBER: For demonstrative purposes.
MR. CIRESI: No objection, Your Honor.

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THE COURT: Court will receive 1917 for demonstrative purposes.
MR. WEBER: Can we get that a little better? Well, maybe not.
BY MR. WEBER:
Q. Dr. Glenn, taking a look at Exhibit 1917, could you start on the left-hand side. Was Dr. Clarence Cook Little the first scientific director?
A. He was.
Q. And then it goes along the right to you yourself; correct?

A. Correct.
Q. We had a chance to talk to the jury about your background. Could you start with Dr. Little and then move across and advise the jury about the background of these scientists who've served as scientific director at The Council for Tobacco Research?
A. Yes. Dr. Clarence Little's various accomplishments are listed there. He was president of two universities, as you see. He was the first director of what became the American Cancer Society, president of the American Association for Cancer Research, but I think probably Dr. Little's greatest distinction was he started the Jackson Memorial laboratory in Bar Harbor, Maine, and that was the institution that developed the first strain of inbred mice. And the significance of that is that this was the first time that we were able to replicate laboratory results without the extraneous factors of comparing different breeds. In other words, these mice were literally all alike, so the results that you got in experimentation were much more consistent, much more uniform. Probably one of the really significant scientific contributions of this century.
Q. Dr. Glenn, I may have missed it. What was Dr. Little's scientific background? What --

Did he have an area of specialization?
A. He was a geneticist primarily, but his -- his interest in genetics had focused on cancer, and that's why he had such broad-ranging activity in the field of cancer.
Dr. Gardner was chairman of the anatomy department at Yale Medical School, but he, too, was very active in the cancer area. You see the second item there, president of the International Union Against Cancer, that's what we were talking about earlier when I -- when we talked about the American Joint Committee on Cancer. That is a -- a segment of this international thing. Dr. Gardner had an international reputation for cancer research which he had accomplished at Yale.
Dr. Sommers was for many years director of pathology at the Lenox Hill Hospital and held a professorship at Columbia Presbyterian College of Physicians and Surgeons. Dr. Sommers' major

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contributions were in the area of lung pathology. He was considered one of the world's authorities on lung cancer.
Q. Dr. Glenn, let me interrupt you there before you go any more with Dr. Sommers. Could you explain to the ladies and gentlemen of the jury what "pathology"

is and what a pathologist does. That is, Dr. Sommers was a pathologist; correct?
A. Yes.
Q. Could you just explain that area of practice and specialty?
A. A pathologist is a physician who devotes his efforts to the analysis of body substances, tissues, fluids. The pathologist is usually the final word in what -- what's wrong with somebody. A pathologist is the linchpin, I suppose, of the practice of medicine, so he becomes a very important member of the team. The patient never sees him, but the doctors all rely on him.
Q. Now could we go back to the prior exhibit just for a moment, which was 1208. Now we talked about the board of directors.
Do you need some water, doctor? Are you okay?
A. Yes. No, I'm fine.
Q. We talked about the board of directors and now the staff and scientific directors over the period since 1954 to present. I want to focus on the center square there, the Scientific Advisory Board. All right?
A. Yes, sir.
Q. Could you describe what the general function of

the Scientific Advisory Board has been.
A. Well the Scientific Advisory Board is extremely focused. They -- they focus on review of grant applications and make the determination of the relative merit of these grant proposals and advise us on which projects should be funded. By intention, the Scientific Advisory Board has been made up of many disciplines, many different types of physicians and scientists in order to get as broad a view of medical research as possible.
In the beginning, I believe I remember that there were nine members of the Scientific Advisory Board. It's grown now, and currently there are 15 members of the Scientific Advisory Board, representing most of the areas of current medical research.
Q. Are members of the Scientific Advisory Board employees of tobacco companies or affiliated with tobacco companies?
A. No, sir, none of them have any affiliation.
Q. What -- what types of affiliations do they have? Do they -- do they -- do they retain their affiliations at other institutions?
A. Oh, yes. These people are all active faculty

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members in medical schools or staff members in cancer research institutions, that sort of thing. We have in the past had members of the Scientific Advisory Board who were on the staff of the National Cancer Institute, for example.

Q. How are members of the Scientific Advisory Board selected, Dr. Glenn?

A. Well it's an informal process. Since I've been there I have asked the -- the members -- the existing members of the board to identify candidates who might be appropriate members, and they in turn will surface names in various disciplines. We try to look at areas where we -- we need further expertise. So the -- the SAB itself generates some names of candidates. We usually invite these people to come and join us in one of our grant review sessions just to see how the chemistry works. And if someone is attractive to the Scientific Advisory Board, I then issue the invitation to join.

We've turned over the board about 50 percent in the last six or seven years.

Q. Could you turn, Dr. Glenn, to tab three, which is Exhibit 1229.

A. I have it.

Q. And can you describe what that is.

A. This is a list of the --

Q. Just briefly.

A. This is a list of the members of the Scientific Advisory Board of CTR in 1994.

MR. WEBER: Your Honor, I'd move the admission of Exhibit 1229 for demonstrative purposes.

MR. CIRESI: No objection, Your Honor.

THE COURT: Court will receive 1229 for demonstrative purposes.

BY MR. WEBER:

Q. May be more easily readable on the side screen. I hope it is clear up here as well.

Doctor, could you go through and describe the members of the Scientific Advisory Board in 1994?

A. Yes.

Q. And give -- give us a brief comment on the field of expertise or specialization each member has.

A. Dr. Joseph Feldman was chairman of the board in 1994. His area of expertise was in immunology. He was trained as a pathologist, but he became interested in experimental immunology, which is pretty fundamental to the cancer area.

Dr. Barry Pierce also was trained as a pathologist. His interest was in tumorigenesis, the formation of tumors. Dr. Pierce serves now as the chairman of the board.

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Dr. Leo Abood, who has been mentioned here previously, was professor of pharmacology and biochemistry at the University of Rochester. His main area of interest and life-long research was in the field of nicotine receptors. And I think that probably begs a little identification.

In the human nervous system there are two types of receptor cells that --

MR. CIRESI: Excuse me.

A. -- receive the signal that make muscles function.

MR. WEBER: Hold on just a second.

MR. CIRESI: Your Honor, I'm going to object to this. He has not been qualified as an expert in the area, nor designated.

THE COURT: I think we should move on.

MR. WEBER: I was just going to have him explain, but we can go on.

Q. Let's just go on to the next member, Dr. Glenn.

A. Dr. Barry Arneson is chairman of the department of neurology and director of the Brain Institute at the University of Chicago.

Dr. Drummond Bowden is a pulmonary pathologist, lung pathologist from Canada.

Dr. Michael Brennan is the former director of

the Michigan Cancer Center, and he is a physician who practices in the -- in the area of medical oncology, the treatment of cancer.

Dr. Raymond Erickson is a molecular biologist. He studies biology at a very fundamental level at Harvard.

Dr. Gordon Gill is a physician who is trained in endocrinology, but his research work has been primarily in the area -- area of tumor metabolism.

Doctor --

Q. Dr. Glenn, just briefly what is endocrinology?

A. The study of the endocrine organs. The endocrine organs include the thyroid, the adrenal glands, other glands.

Dr. W. K. Joklik, chairman of the department of microbiology at Duke, his primary interest is in viruses and the potential of cancer formation by viruses.

Dr. Manfred Karnovsky is a professor of biochemistry at Harvard. He is now retired. He is a basic biological chemist.

Dr. Alfred Knudson, former director of the Fox Chase Cancer Center. Fox Chase is a semi-independent cancer institute like Memorial Sloan-Kettering in New York or like the M. D. Anderson in Houston. Dr.

Knudson was the man who identified the two-hit theory for development of cancer; there must be a cascade of events. He is a candidate for the Nobel Prize for that particular discovery.

Dr. Henry Lynch is an internist who directs the

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Familial Cancer Program at Creighton University. Dr. Lynch has the largest collection of family cancers in the world, and it was Dr. Lynch's collection that led to the identification of the gene that causes familial colon cancer. You may have read about this in the paper within the last year. People at Johns Hopkins used Dr. Lynch's material to identify this particular gene.

Dr. McAllister is our scientific director. As I told you, he's a biochemist.

Dr. Gordon Sato, now retired from the board, was the director of the W. Alton Jones Cell Science Center at Lake Placid. Dr. Sato was one of the real pioneers in molecular biology.

Dr. Judith Swain is distinguished as a cardiovascular physician. She is trained as a basic investigator as well as a clinician, and since this time she has been appointed chairman of the department of medicine at Stanford University.

And Dr. Peter Vogt, former chairman of

microbiology at the University of Southern California, is now at the Scripps Research Institute at La Jolla. And Dr. Vogt was one of the earliest people to identify the oncogenes, the cancer-causing genes.

Q. Thank you, doctor.

I want to discuss in some more detail later the grant review process with the SAB, but right now I'd like you to focus briefly and describe just the general workings of an SAB meeting with these scientists, and -- and just the general structure of it, if you would.

A. Well the grant applications are -- are allocated to these various members. We try to get two or three members of the Scientific Advisory Board to do an in-depth review of each grant, each application. However, the applications are sent to all members of the board. This is done twice a year at six-month cycles.

The grant applications are reviewed and the -- the Scientific Advisory Board then meets in New York at our headquarters twice a year for a three-day meeting to go over all of these grant applications. And each cycle there will be something of the magnitude of 150 to 200 grant applications to be

reviewed, so it's a very intensive effort.

The two or three primary reviewers give their written summary, and that's circulated to all members of the Scientific Advisory Board. The floor is then open to discussion of each grant. When the discussion is exhausted, the chairman calls for a vote, and the Scientific Advisory Board members vote on each grant in exactly the same way that it's done at the National Institutes of Health and the National Cancer Institute. That is a scoring system of one to

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five where one is the best score you can possibly get -- and it rarely happens -- and five is the poorest score you can get. Those votes are tallied. The average is -- is achieved, and that -- that constitutes the ranking, the rating of the grant applications.

We then fund those that we can fund. We fund the top group as selected by this competitive process.

Q. Does the SAB keep formal minutes of its actions?

A. Yes, sir.

Q. And has -- has it done that over the years?

A. Yes, sir, since the beginning.

Q. And have you collected and reviewed those?

A. I have.

Q. Could you turn -- I think the binder is labeled MD001258. Is there such a binder?

A. Yes, there's two volumes here, and these are the SAB minutes that date back to the inception of The Council for Tobacco Research.

MR. WEBER: Do you have that number, Mr. Ciresi? MD001258.

MR. CIRESI: I have the number. I'm looking for it.

MR. WEBER: It may be in a separate -- it's a big, thick one. I don't know if you've got it.

MR. CIRESI: I have it. Thank you.

MR. WEBER: Okay.

BY MR. WEBER:

Q. Now, is that which has been marked as MD001258 the minutes of the Scientific Advisory Board over the period of the CTR?

A. Yes, sir.

MR. WEBER: Your Honor, I'd move the admission of the minutes of the Scientific Advisory Board at this time.

MR. CIRESI: No objection, Your Honor.

THE COURT: Court will receive MD001258.

BY MR. WEBER:

Q. Dr. Glenn, if you wouldn't mind just finding one

set of minutes in there, and it may be during a period when you were affiliated with CTR, and just, again, a brief overview of the types of issues that were before the Scientific Advisory Board.

A. Well I can turn here to the minutes of the meeting of the Scientific Advisory Board, March 30-31, April 1 and 2.

Q. What year?

A. In 1993.

Q. 1993. And can you give us a page number?

A. Page number is 939.

MR. CIRESI: Is that the last three Bates numbers, doctor?

THE WITNESS: I'm sorry?

MR. WEBER: Is that the last three Bates

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numbers, or --
MR. WEBER: May I approach?
THE WITNESS: The last three Bates numbers are 912. CTR minutes, SAB 000912. Page number is 939.
MR. CIRESI: It's not part of the exhibit. Goes up to 523.
MR. WEBER: It might be in another -- it's two volumes, I think.
Are you all set, Mr. Ciresi?

MR. CIRESI: I have it. Thank you, doctor.
BY MR. WEBER:
Q. Doctor, again without going through the entire set of actions because it's a long list of grants and reviews, could you just give the ladies and gentlemen of the jury a brief overview of the activity of the Scientific Advisory Board at this meeting in 1993.
A. Well the minutes record the attendance and participation of the SAB members and staff members who were present. A report of the Scientific Advisory Board held the previous September was approved. And then we go to administrative actions, and this deals with allocation of funds for existing grants. For example, several investigators didn't expend all of their research funds, and those are returned, so we acknowledge the return of the uncommitted balance of $133.49 from Dr. Axelrod, for example, and so on.
We also approve the transfer of funds from one grant category to another. You know, in a grant application there is a category for personnel; that is, salaries, category for equipment, category for publication costs and travel, category for equipment purchase -- purchases, and many times an investigator halfway through a grant period will determine that

what he really needs is a new microscope, and he asks for transfer of funds from -- from animal expenses to equipment. And -- and almost universally the Scientific Advisory Board will approve that. So there are one, two, three, four pages of administrative actions of that sort.
The next thing is the approval of renewal applications. Most of the grants that we've awarded are for an interval of three years. Some are for two years, some are for one, but most of them are for three years. And it is implicit in our original award that as long as there's satisfactory progress with the -- with the grant, we will renew for the second and third year. So these renewal applications are for the second and third year of a three-year grant award, and there are two pages of those. In other words, those are existing grants that are being renewed for another year, because we renew -- we approve them on a year-to-year basis.
The fourth item are the new and continuing

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applications. These are -- these are applicants who have had, say, a three-year cycle and come back to us for a -- a renewal of the three-year cycle. And we -- if the work has been good, we will generally continue them for another three-year interval. There

are two and a half pages of those grants. And the amount of the award is listed there. And I would tell you that our average award is something like 80 or 85 thousand dollars a year. So they're not huge grants, but they are very good grants, especially for young people who are just getting their -- their feet wet.

The fifth item in the -- in the administrative action deals with -- deals with the funding of continuation applications that were approved but not funded previously.

The next item is an announcement simply of how much we have to allocate for the current interval.

And the final item is just a report on grants that have been funded.

Q. And how long did that meeting take that you're referring to?

A. Those meetings --

In 1993 we were meeting for four days. This -- this part of the meeting is done fairly expeditiously. The -- the information that is contained here is circulated to all members of the SAB ahead of time, so they're aware of the magnitude of the grants. Occasionally one of them will question the amount of an award, and that's then

discussed. But in general, this -- this is just information purposes for them.

Q. Now Dr. Glenn, in the time you've been at the CTR and affiliated with it, have you familiarized yourself with the former members of the Scientific Advisory Board who preceded you?

A. Yes, sir.

Q. And are you familiar with their reputation for research in the biomedical community?

A. Yes, sir.

Q. Could you turn to demonstrative Exhibit 1219 and then to 1881, because those two -- despite the numbers, those two do comprise one process.

A. What tab is that, Mr. Weber?

Q. I'm sorry, tab six for 1219, tab seven for 1881.

A. I have tab six.

Q. And could you take a look at tab seven as well, which is 1881.

A. And I have tab seven.

Q. And let me ask you: Are those two lists that were prepared of the members of the Scientific Advisory Board over time?

A. Yes, they are.

MR. WEBER: Your Honor, I'd move into evidence Exhibits 1219 and 1881 for demonstrative

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purposes.
MR. CIRESI: No objection, Your Honor.
THE COURT: Court will receive 1219 and 1881 for demonstrative purposes.
BY MR. WEBER:
Q. Let's start with 1219.
A. Okay.
Q. Did you just have an accident with one of the binders?
A. I just have more paper over here than I can handle.
Q. I apologize.
We're going to speak in a little more detail about some of the SAB numbers a little later, doctor, but this is the first part of a chart beginning 1954 of SAB members; correct?
A. Yes.
Q. And again, we'll speak about some of these individuals later. Could you just comment on the general scope of expertise and institutions they've been affiliated with, just quickly on this one, then we'll go to the next one, which brings us up to date.
A. Well I think that the jury is going to appreciate that fine institutions that are represented here. These people are from all

different disciplines. We've talked about a few of them. Many of these in the early days I did not know, but beginning here with Dr. Richard Bing in about the middle of the list, I've known most of the ones since that time. They represent a broad section of expertise, and we can go into that subsequently as we look at individual members.
Q. All right. Could you take a look now at Exhibit 1881, please, which should come up next. That's at tab seven.
A. Yes. At the top of this list you'll see Dr. Lee Wattenburg, who is a very distinguished investigator here at the University of Minnesota. Other names you will recognize from the list of current members in 1994. These people represent a very broad cross-section of interests and -- and expertise. I think -- I think the impressive thing to me is that CTR has been able to recruit/attract people from the best institutions in the country.
Q. Dr. Glenn, could you turn to tab five in your binder.
A. I have that.
MR. WEBER: Oh, this is on that list I gave you. Excuse me, Your Honor. May I approach?
(Document handed to the court.)

MR. WEBER: Your Honor, what that is is a

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list of exhibit numbers under that one tab.
THE COURT: Okay.
BY MR. WEBER:
Q. Dr. Glenn, under tab five, do you have collected there the curriculum vitae or resumes of the SAB members over the years?
A. Yes.
Q. Were these collected by the CTR in the regular course of business?
A. Yes. And periodically updated.
Q. And does CTR maintain these as part of its files?
A. We do.
MR. WEBER: All right, Your Honor, I'd like to move into admission at this time the CVs of the SAB members on the list that I provided to the court and to Mr. Ciresi. I'm prepared to read through that whole list should the court wish me to, or -- or we could deal with it off this piece of paper.
MR. CIRESI: Your Honor, we just received this right before the direct examination started. I would suggest, for brevity's sake, that maybe we put an exhibit sticker on this, and we'll just verify that these exhibits are correct, and that will save

us all a lot of time.
THE COURT: Can you just mark this --
MR. CIRESI: We have no objection.
THE COURT: -- as an exhibit?
MR. WEBER: Okay.
THE COURT: The list itself?
MR. WEBER: I'm sorry, Your Honor?
THE COURT: Can we just mark the list itself as an exhibit and then introduce that so we don't have to go through it all?
MR. WEBER: All right. But -- the actual CVs will be going in, but we don't need to read them?
THE COURT: Correct.
MR. WEBER: Thank you.
Are there any trial exhibit numbers that have been used yet that I need to worry about? How about twenties, since today is the 20th?
MR. CIRESI: Why don't -- maybe you could use your numbers, which start, I believe, at -- what is it, 50,000? Yeah, at 50,000, and so you could just put any number on you want after that.
MR. WEBER: 50001. Okay, thank you.
MR. CIRESI: I hope you don't have another 50001, counsel.
THE COURT: Can you give that to the clerk

after it's marked then.
MR. WEBER: He's got a copy from before, Your Honor.
THE COURT: Fine.
MR. WEBER: So we would move the admission of Trial Exhibit 50001, which has been marked. It

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consists of a list of the actual exhibit numbers for the resumes and CVs of the SAB members.

MR. CIRESI: And there's no objection, Your Honor. We'll check those against the exhibit numbers on here for the court.

THE COURT: Okay. And the number is scary, but we'll introduce and allow 50001.

BY MR. WEBER:

Q. Dr. Glenn, could you now turn to tab eight in your binder. That would be Exhibit 1958.

A. Give me just a minute.

I have tab eight, Exhibit 1958.

Q. Now is that a demonstrative exhibit summarizing some of the credentials of former SAB members?

A. Yes.

MR. WEBER: Your Honor, I would move Exhibit 1958 into evidence for demonstrative purposes.

MR. CIRESI: Well, Your Honor, I think we

just put in all the CVs. This is going to be cumulative.

MR. WEBER: Well this is just for demonstrative purposes rather than put the CVs themselves up.

THE COURT: All right.

MR. CIRESI: I have no objection.

THE COURT: We'll allow 1958 for demonstrative purposes.

BY MR. WEBER:

Q. Could you just describe briefly to the ladies and gentlemen of the jury these two former members of the Scientific Advisory Board?

A. Well Dr. Leo Jacobson was for a long time the chairman of the board of the Scientific Advisory Board. As you see here from the abstract of his curriculum vitae, he also was dean of the School of Medicine of the University of Chicago. He had been chairman of the Department of Medicine. His field of interest was in blood cancers. And the most interesting thing was Dr. Jacobson was the first physician assigned to the Manhattan Project, the atomic bomb project in World War II. He was just a young resident at the time, and he was introduced to Robert Oppenheimer and Enrico Fermi, who were the men

who invented the -- developed the atomic bomb. He didn't know what the project was. The biographical data about that is fascinating.

MR. CIRESI: Excuse me, doctor. Your Honor, I'm going to object on relevance grounds, and also it's hearsay. If we can move on to issues.

THE COURT: I'll let it stand. But let's not get too deeply involved in the Manhattan Project today.

BY MR. WEBER:

Q. And Dr. Lynch, Dr. Glenn?

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A. Dr. Lynch was the guiding spirit of the Medical College of South Carolina, which is one of the oldest medical schools in the South. He was a pathologist with a special interest in pulmonary disease.
Q. Now could you turn to tabs nine and ten, which are Exhibits 1899 and 1879, Dr. Glenn.
A. I have those.
Q. And are those the remaining two demonstratives with respect to other SAB members?
A. Yes. Well, or there is --
Yes.
MR. WEBER: Your Honor, I'd -- well I'll wait just a moment.
MR. CIRESI: I'm going to save time, Your

Honor, if they're demonstrative.
MR. WEBER: They're demonstrative.
MR. CIRESI: No objection.
MR. WEBER: Okay. That was 1899 and 1879, Your Honor.
THE COURT: Court will receive 1879 and 1899 for demonstrative purposes only.
A. These are just other members of the SAB.
Q. Dr. Bing, can you --
A. Dr. Bing is the first -- I'm not -- maybe not the first, but one of the early experimental cardiologists. He's still active. He's retired from our board now, but he is active at 90 years of age; runs a research laboratory still.
Dr. Feldman was our chairman for a number of years; unfortunately died two years ago. He -- his interest was immunology.
Q. And 1879?
A. Dr. Ros Boutwell was a member, a long-time member of the board, but he also served on the President's Advisory Committee on Cancer, and is still active in the area.
Dr. Karnovsky is the professor emeritus of biochemistry, has been awarded many, many, many honors.

And Dr. Knudson I've spoken about previously, is a candidate for the Nobel Prize for his work in -- in the origin of cancer.
Q. Was that the oncogene work you mentioned earlier?
A. Yes.
Q. Now doctor, take a look at tab 11, would you please, which would be -- it's another demonstrative, 1225.
MR. CIRESI: May I ask, Your Honor, is this another resume of a Scientific Advisory Board member?
MR. WEBER: Yes, it's former Advisory Board members who were also members of the National Cancer Institute. Same type of thing.
MR. CIRESI: No objection.
MR. WEBER: 1225.

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THE COURT: Are you going to introduce it?
MR. WEBER: Yeah, I move to introduce for demonstrative purposes Exhibit 1225, Your Honor.
THE COURT: Court will receive 1225 for demonstrative purposes.
BY MR. WEBER:
Q. Now Dr. Glenn, over the years have scientists at the National Cancer Institute been members of the Scientific Advisory Board at CTR?

A. Yes, sir.
Q. And are they listed here on Exhibit 1225?
A. They are.
Q. Could you just briefly go through some of these National Cancer Institute scientists who sat on the board, the Scientific Advisory Board for The Council of Tobacco Research?
A. Dr. Kotin was chief of the carcinogenesis studies branch at the National Cancer Institute. This means the study of the origins of cancer. I did not know Dr. Kotin; he retired from the board a number of years ago.
Dr. Andervont was the editor of the Journal of the National Cancer Institute where many, many papers -- in fact, that is the second most frequently cited journal as far as CTR papers are concerned.
Dr. Huebner was a virologist, the first chief of the viral cancer branch of the NCI.
And Dr. Peter Howley was a pathologist who is primarily interested in viruses as well. He is now the chairman of the department of pathology at Harvard University.
Q. Now Dr. Howley left the SAB in 1986?
A. Yes, sir.
Q. Has he been invited back for presentations or

speeches since that time?
A. Yes, he's attended meetings and made presentations to us. And we, indeed, invited him to rejoin the -- the SAB, but he felt that he needed to spend time developing his department at Harvard first.
Q. Now are -- well strike that.
Have members of the Scientific Advisory Board of The Council for Tobacco Research also been members of boards for other funding organizations?
A. Oh, yes. Large number of them.
Q. Could you name some of those other institutions or agencies?
A. Well the prominent ones, ones that all of us would recognize, American Cancer Society, American Heart, American Lung Association, the Multiple Sclerosis Foundation, a wide variety.
Q. Are you aware of the reputation of these SAB members, all of them, since you've been affiliated with CTR, their reputation for the quality and integrity of their scientific work?

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A. Oh, I think these -- these people are the cream of the crop in American medical research.

MR. WEBER: Your Honor, I'm moving to another topic, and I wonder if it might be a good

stopping point.

THE COURT: All right. We'll recess and reconvene Monday at 9:30.

And I don't want to sound like a nag, but let me again give you your regular reminder: Don't discuss the case with your spouse or girlfriend or boyfriend or close friend or anybody. Do not read any newspapers, listen to any TV or radio that discuss the case. And if anyone approaches you and wants to discuss this matter and they continue to approach you, please inform the court.

Have a nice weekend.

(Recess taken.)

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